

*State of Iowa*

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# **Administrative**

# **Code**

# **Supplement**

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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code sections 2B.5A and 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay or suspension imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

# **INSTRUCTIONS**

## **FOR UPDATING THE**

### **IOWA ADMINISTRATIVE CODE**

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

#### **Insurance Division[191]**

Replace Analysis

Replace Chapter 15

#### **Transportation Department[761]**

Replace Analysis

Replace Chapter 410

Replace Chapter 524

Replace Chapter 604



**INSURANCE DIVISION[191]**

[Prior to 10/22/86, see Insurance Department[510], renamed Insurance Division[191] under the “umbrella” of Department of Commerce by the 1986 Iowa Acts, Senate File 2175]

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CHAPTER 15  
UNFAIR TRADE PRACTICES  
[Prior to 10/22/86, Insurance Department[510]]

DIVISION I  
SALES PRACTICES

**191—15.1(507B) Purpose.** This chapter is intended to establish certain minimum standards and guidelines of conduct by identifying unfair methods of competition and unfair or deceptive acts or practices in the business of insurance, as prohibited by Iowa Code chapter 507B.

**191—15.2(507B) Definitions.**

*“Advertisement”* for the purpose of these rules shall be material designed to create public interest in insurance or an insurer, or to induce the public to purchase, increase, modify, reinstate or retain a policy including:

1. Printed and published material, audio and visual material, and descriptive literature of an insurer or producer used in direct mail, newspapers, magazines, radio scripts, TV scripts, billboards, computer on-line networks and similar displays; descriptive literature and sales aids of all kinds issued by an insurer or producer for presentation to members of the public, including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters; and sales talks, presentations, and material for use by producers.

2. However, for the purpose of these rules “advertisement” shall not include: communications or materials used within an insurer’s own organization and not intended for dissemination to the public; communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate, or retain a policy; and a general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged, provided the announcement clearly indicates that it is preliminary to the issuance of a booklet explaining the proposed coverage.

*“Aftermarket crash parts”* means replacement parts as defined in Iowa Code section 537B.4.

*“Certificate”* means a statement of the coverage and provisions of a policy of group accident and sickness insurance which has been delivered or issued for delivery in this state and includes riders, endorsements and enrollment forms, if attached.

*“Duplicate Medicare supplement insurance”* shall mean the sale or the attempt to knowingly sell to an individual a policy of insurance designed to supplement Medicare benefits as provided in The Health Insurance for the Aged Act, Title XVII of the Social Security Amendments of 1965 as then constituted or later amended when the individual is already insured under such a policy.

*“Duplication”* means policies of the same coverage type according to minimum standards classifications outlined in 191 IAC 36.6(514D) which overlap to the extent that a reasonable individual would not consider the ownership of the policies to be beneficial.

*“Exception”* for the purpose of these rules shall mean any provision in a policy whereby coverage for a specified hazard is entirely eliminated; it is a statement of a risk not assumed under the policy.

*“Illustrated scale”* shall mean a scale of nonguaranteed elements currently being illustrated that is not more favorable to the policyholder than the lesser of the disciplined current scale or the currently payable scale as defined in 191 IAC 14.4(507B).

*“Institutional advertisement”* means an advertisement having as its sole purpose the promotion of the reader’s, viewer’s or listener’s interest in the concept of accident and sickness insurance, or the promotion of the insurer as a seller of accident and sickness insurance.

*“Insurer”* shall mean any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd’s, fraternal benefit society, and any other legal entity engaged in the business of insurance.

*“Invitation to contract”* means an advertisement for accident and sickness insurance that is neither an invitation to inquire nor an institutional advertisement.

*“Invitation to inquire”* means an advertisement having as its objective the creation of a desire to inquire further about accident and sickness insurance and that is limited to a brief description of the loss

for which benefits are payable. An invitation to inquire may not refer to cost but may contain the dollar amount of benefits payable and the period of time during which benefits are payable.

*“Limitation”* for the purpose of these rules shall mean any provision which restricts coverage under the policy other than an exception or a reduction.

*“Limited benefit health coverage”* shall have the same meaning as defined in 191—subrule 36.6(10).

*“Person”* shall mean any individual, corporation, association, partnership, reciprocal exchange, interinsurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including insurance producers and adjusters. *“Person”* shall also mean any corporation operating under the provisions of Iowa Code chapter 514 and any benevolent association as defined and operated under Iowa Code chapter 512A. For purposes of this chapter, corporations operating under the provisions of Iowa Code chapter 514 and Iowa Code chapter 512A shall be deemed to be engaged in the business of insurance.

*“Policy”* shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider, or endorsement which provides for insurance benefits.

*“Preneed funeral contract or prearrangement”* shall mean an agreement by or for an individual before the individual’s death relating to the purchase or provision of specific funeral or cemetery merchandise or services.

*“Producer”* shall mean a person who solicits, negotiates, effects, procures, delivers, renews, continues or binds policies of insurance for risks residing, located or to be performed in this state.

*“Prominently”* or *“conspicuously”* means that the information to be disclosed will be presented in a manner that is noticeably set apart from other information or images in the advertisement.

*“Reduction”* for the purpose of these rules shall mean any provision which reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of such loss is limited to some amount or period less than would be otherwise payable had such reduction not been used.

*“Twisting”* shall mean any action by a producer or insurer to induce or attempt to induce any individual to lapse, forfeit, surrender, terminate, retain, assign, borrow, or convert a policy or an annuity in order that such individual procure another policy or annuity, when such action would operate to the overall detriment of the interests of the individual.

### **191—15.3(507B) Advertising.**

**15.3(1) *Form and content of advertisements.*** The format and content of an advertisement shall be truthful and sufficiently complete and clear to avoid deception or the capacity or tendency to misrepresent or deceive. Whether an advertisement has a capacity or tendency to misrepresent or deceive shall be determined by the overall impression that the advertisement may be reasonably expected to create upon an individual in the segment of the public to which it is primarily directed and who has average education, intelligence and familiarity with insurance terminology for products in that market.

Information regarding exceptions, limitations, reductions and other restrictions required to be disclosed by this rule shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisements so as to be confusing or misleading.

#### **15.3(2) *Prohibited terms and disclosure requirements for health insurance.***

*a.* No advertisement shall contain or use words or phrases such as “all”; “full”; “complete”; “comprehensive”; “unlimited”; “up to”; “as high as”; “this policy will help fill some of the gaps that Medicare and your present insurance leave out”; “this policy will help to replace your income” (when used to express loss of time benefits); or similar words and phrases, in a manner which exaggerates any benefits beyond the terms of the policy.

*b.* No advertisement shall contain descriptions of a policy limitation, exception, or reduction, worded in a positive manner to imply that it is a benefit, such as describing a waiting period as a “benefit builder” or stating “even preexisting conditions are covered after two years.” Words and phrases used in an advertisement to describe such policy limitations, exceptions and reductions shall fairly and accurately describe the negative features of such limitations, exceptions and reductions of the policy offered.

*c.* No advertisement of a benefit for which payment is conditional upon confinement in a hospital or similar facility shall use words or phrases such as “tax free,” “extra cash” and substantially similar

phrases which have the capacity, tendency or effect of misleading the public into believing that the policy advertised will, in some way, enable an individual to make a profit from being hospitalized.

*d.* No advertisement shall use the words “only”; “just”; “merely”; “minimum” or similar words or phrases to describe the applicability of any exceptions and reductions, such as: “This policy is subject to the following minimum exceptions and reductions.”

*e.* An advertisement which refers to either a dollar amount, or a period of time for which any benefit is payable, or the cost of the policy, or specific policy benefit, or the loss for which such benefit is payable, shall also disclose those exceptions, reductions, and limitations affecting the basic provisions of the policy without which the advertisement would have the capacity or tendency to mislead or deceive.

*f.* An advertisement may contain a brief description of coverage in an invitation to inquire so long as it is limited to a brief description of the loss for which benefits are payable. The brief description may also contain the dollar amount of benefits payable or the period of time during which benefits are payable, or both, but may not refer to the cost of the policy.

*g.* An advertisement for a policy which contains a waiting, elimination, probationary, or similar time period between the effective date of the policy and the effective date of coverage under the policy or a time period between the date a loss occurs and the date benefits begin to accrue for such loss shall prominently disclose the existence of such periods.

*h.* An invitation to inquire shall contain a provision in the following or substantially similar form: “This policy has [exclusions] [limitations] [reduction of benefits] [terms under which the policy may be continued in force or discontinued]. For costs and complete details of the coverage, call [or write] your insurance agent or the company [whichever is applicable].”

**15.3(3) *Prohibited terms in life insurance and annuity policies.*** No advertisement for a life insurance or annuity policy shall use the terms “investment,” “investment plan,” “founder’s plan,” “charter plan,” “expansion plan,” “profit,” “profits,” “profit sharing,” “interest plan,” “savings,” “savings plan,” “retirement plan,” or other similar term which has the capacity or tendency to mislead an insured or prospective insured to believe that the insurer is offering something other than an insurance policy or some benefit not available to other individuals of the same class and equal expectation of life. An advertisement shall not state that there are “no more premiums” or that premiums will “vanish” or “disappear” or use similar terms when such statement is not based on the guaranteed rates.

**15.3(4) *Exclusions, limitations, exceptions and reductions.*** Words and phrases used in an advertisement to describe policy exclusions, limitations, exceptions and reductions shall clearly, prominently and accurately indicate the negative or limited nature of the exclusions, limitations, exceptions and reductions.

An advertisement for a policy providing benefits for specified illnesses only, such as cancer, or other policies providing benefits that are limited in nature shall clearly and conspicuously in prominent type state the limited nature of the policy. The statement shall be worded in language identical to or substantially similar to the following: “THIS IS A LIMITED POLICY,” “THIS POLICY PROVIDES LIMITED BENEFITS,” or “THIS IS A CANCER-ONLY POLICY.”

**15.3(5) *Use of statistics.*** An advertisement shall not contain statistical information relating to any insurer or policy unless it accurately reflects recent and relevant facts. The source of any such statistics used in an advertisement shall be identified therein.

**15.3(6) *Introductory, initial or special offers.***

*a.* An advertisement shall not directly or by implication represent that a policy is an introductory, initial or special offer, or that a person will receive advantages not available at a later date, or that the offer is available only to a specified group of persons, unless such is the fact.

*b.* An advertisement shall not offer a policy which utilizes a reduced initial premium rate in a manner which overemphasizes the availability and the amount of the initial reduced premium. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, the advertisement shall not display the amount of the reduced initial premium either more frequently or more prominently than the renewal premium, and both the initial reduced

premium and the renewal premium must be stated in each portion of the advertisement where the initial reduced premium appears. This paragraph shall not apply to annual renewable term policies.

**15.3(7) *Testimonials or endorsements by third parties.***

a. Testimonials used in advertisements must be genuine, represent the current opinion of the author, be applicable to the policy advertised and be accurately reproduced. The insurer, in using a testimonial, makes as its own all of the statements contained therein, and the advertisement, including such statement, is subject to all the provisions of these rules.

b. If the person making a testimonial or an endorsement has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee, or otherwise, such fact shall be disclosed in the advertisement. If a person is compensated for making a testimonial or endorsement, such fact shall be disclosed in the advertisement by language substantially as follows: "Paid Endorsement." This rule does not require disclosure of union "scale" wages required by union rules if the payment is actually for such "scale" for TV or radio performances. The payment of substantial amounts, directly or indirectly, for "travel and entertainment" for filming or recording of TV or radio advertisements constitutes compensation and requires disclosure. This rule does not apply to an institutional advertisement which has as its sole purpose the promotion of the insurer.

c. An advertisement which states or implies that an insurer or an insurance product has been approved or endorsed by any person or other organizations must also disclose any proprietary or other relationship between the parties.

**15.3(8) *Disparaging and incomplete comparisons and statements.*** An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or comparisons of noncomparable policies of other insurers, and shall not disparage other insurers, their policies, services or business methods, and shall not disparage or unfairly minimize competing methods of marketing insurance. An advertisement shall not contain statements which are untrue in fact, or by implication misleading, with respect to the assets, corporate structure, financial standing, age or relative position of an insurer in the insurance business.

**15.3(9) *Identity of insurer.***

a. The name of the actual insurer shall be clearly identified in all advertisements for a particular policy. An advertisement shall not use a trade name, insurance group designation, name of a parent company, name of a particular company division, service mark, slogan, symbol or other device which would have the capacity and tendency to misrepresent the true identity of an insurer.

b. No advertisement shall use any combination of words, symbols, or physical materials which by its content, phraseology, shape, color or other characteristics is so similar to combinations of words, symbols, or physical materials used by a municipal, state or federal agency that it would lead a reasonable individual to believe that the advertisement is approved, endorsed or accredited by an agency of the municipal, state, or federal government.

**15.3(10) *Disclosure requirements for life insurance and annuities.***

a. An advertisement for a policy containing graded or modified benefits shall prominently display any limitation of benefits. If the premium is level and coverage decreases or increases with age or duration, such fact shall be prominently disclosed.

b. An advertisement for a policy with nonlevel premiums shall prominently describe the premium changes.

c. Dividends.

(1) An advertisement shall not state or imply that the payment or amount of dividends is guaranteed. If dividends for an annuity are illustrated, the illustration must be based on the insurer's illustrated scale and must contain a statement that the illustration is not to be construed as a guarantee or estimate of dividends to be paid in the future.

(2) An advertisement shall not state or imply that the illustrated scale under a participating policy or pure endowments will be or can be sufficient at any future time to ensure, without the further payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains (1) what benefits or coverage would be provided at such time and (2) under what conditions this would occur.



d. An advertisement of a deferred annuity shall not state the net premium accumulation interest rate unless it discloses in close proximity thereto and with equal prominence the actual relationship between the gross and net premiums.

e. An advertisement that states the projected values of a policy must use the guaranteed interest rates in determining such projected values and, in addition, may show other projected values based on interest rates which comply with the illustrated scale. Any statements containing or based upon an interest rate higher than the guaranteed accumulation interest rates shall likewise set forth with equal prominence comparable statements containing or based upon the guaranteed accumulation interest rates. If the policy does not contain a provision for a guaranteed interest rate, any advertisement showing projected values must clearly state that the rates are not guaranteed. This subrule does not apply to an illustration or supplemental illustration subject to the provisions of the Life Illustrations Model Regulation, 191 IAC 14.

f. An advertisement or presentation which does not recognize the time value of money through the use of appropriate interest adjustments shall not be used for comparing the cost of two or more life insurance policies. Such advertisement may be used for the purpose of demonstrating the cash flow pattern of a policy if such advertisement is accompanied by a statement disclosing that the advertisement does not recognize that, because of interest, a dollar in the future may not have the same value as a dollar at the time of the presentation.

g. An advertisement of benefits shall not display guaranteed and nonguaranteed benefits as a single sum unless they are also shown separately in close proximity thereto.

h. A statement regarding the use of life insurance cost indexes shall include an explanation that the indexes are useful only for the comparison of the relative costs of two or more similar policies.

i. A life insurance cost index which reflects dividends or an equivalent level annual dividend shall be accompanied by a statement that it is based on the insurer's illustrated scale and is not guaranteed.

**15.3(11) *Special offers.*** Advertisements, applications, requests for additional information and similar materials are prohibited if they state or imply that the recipient has been individually selected to be offered insurance or has had the recipient's eligibility for the insurance individually determined in advance when the advertisement is directed to all individuals in a group or to all individuals whose names appear on a mailing list.

**15.3(12) *Disclosure requirement.*** In an advertisement that is an invitation to contract for an accident and sickness insurance policy that is guaranteed renewable, cancelable or renewable at the option of the company, the advertisement shall disclose that the insurer has the right to increase premium rates if the policy so provides.

**15.3(13) *Group or quasi-group implications.***

a. An advertisement of a particular policy shall not state or imply that prospective insureds become group or quasi-group members covered under a group policy and, as members, enjoy special rates or underwriting privileges, unless that is the fact.

b. This rule prohibits the solicitation of a particular class, such as governmental employees, by use of advertisements which state or imply that their class membership entitles the member to reduced rates on a group or other basis when, in fact, the policy being advertised is sold only on an individual basis at regular rates.

c. Advertisements that indicate that a particular coverage or policy is exclusively for "preferred risks" or a particular segment of the population or that a particular segment of the population is an acceptable risk, when the distinctions are not maintained in the issuance of policies, are prohibited.

d. An advertisement to join an association, trust or discretionary group that is also an invitation to contract for insurance coverage shall clearly disclose that the applicant will be purchasing both membership in the association, trust or discretionary group and insurance coverage. The insurer shall solicit insurance coverage on a separate and distinct application that requires a separate signature. The separate and distinct application required need not be on a separate document or contained in a separate mailing. The insurance program shall be presented so as not to conceal the fact that the prospective members are purchasing insurance as well as applying for membership, if that is the case. Similarly,

the use of terms such as “enroll” or “join” to imply group or blanket insurance coverage is prohibited when that is not the fact.

*e.* Advertisements for group or franchise group plans that provide a common benefit or a common combination of benefits shall not imply that the insurance coverage is tailored or designed specifically for that group, unless that is the fact.

**15.3(14) Compliance with Medicare supplement advertising rules.** Insurers and producers shall comply with the Medicare supplement advertising rules set forth in 191—Chapter 37, Division II. [ARC 7964B, IAB 7/15/09, effective 8/19/09]

**191—15.4(507B) Life insurance cost and benefit disclosure requirements.**

**15.4(1)** The definition of terms applicable to this rule and its appendices will be found in Appendix I.

**15.4(2)** Except as hereafter exempted, this rule shall apply to any solicitation, negotiation or procurement of life insurance occurring within this state. This rule shall apply to any insurer issuing life insurance contracts including fraternal benefit societies.

Unless otherwise specifically included, this rule shall not apply to:

- a.* Annuities.
- b.* Credit life insurance.
- c.* Group life insurance, except for disclosures relating to preneed funeral contracts or prearrangements as provided herein. These disclosure requirements shall extend to the issuance or delivery of certificates as well as to the master policy.
- d.* Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA).
- e.* Variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account.

**15.4(3)** Prior to or at delivery of a life insurance policy, an insurer or producer shall provide the prospective purchaser the following:

- a.* A life insurance buyer’s guide in the current form prescribed by the National Association of Insurance Commissioners or language approved by the commissioner of insurance, and
- b.* A policy summary as defined in Appendix I.

**15.4(4)** A policy summary is not required to include information available in the policy form or illustration. If an illustration subject to the provisions of 191 IAC 14, Life Insurance Illustrations Model Regulation, is used in the sale of a policy, delivery of a policy summary is not required. A policy summary may not include any element that is not guaranteed.

**191—15.5(507B) Health insurance sales to individuals 65 years of age or older.** The sale of duplicate Medicare supplement insurance is prohibited.

**191—15.6(507B) Preneed funeral contracts or prearrangements.** Rescinded ARC 2258C, IAB 11/25/15, effective 12/30/15.

**191—15.7(507B) Twisting prohibited.** No insurer or producer shall engage in the act of twisting.

**191—15.8(507B) Producer responsibilities.**

**15.8(1) Required disclosures.** A producer shall inform the prospective purchaser, prior to commencing an insurance sales presentation, that the producer is acting as an insurance producer and inform the prospective purchaser of the producer’s full name and the full name of the insurance company which the producer will represent in the insurance sales presentation. In sales situations in which a producer is not involved, the insurer shall identify its full name to a prospective purchaser.

**15.8(2) Improper sales tactics.**

- a.* Producers and insurers shall not employ any method of marketing or tactic which uses undue pressure, force, fright, threat, whether explicit or implied, to solicit the purchase of insurance.
- b.* A producer shall not:

(1) Execute a transaction for an insurance customer without authorization by the customer to do so; or

(2) Commit any act which shows that the producer has exerted undue influence over a person.

c. Producers and insurers shall not, without good cause:

(1) Fail or refuse to furnish any individual, upon reasonable request, information to which that individual is entitled, or to respond to a formal written request or complaint from any individual.

(2) Sell an insurance policy or rider to an individual which is a duplication of a policy or rider which the individual owns or for which the individual has applied at the time of the sale.

**15.8(3) Prohibited designations and fees.**

a. When an insurance producer is engaged only in the sale of insurance policies or annuities, the insurance producer shall not hold the producer out, directly or indirectly, to the public as a “financial planner,” “investment adviser,” “consultant,” “financial counselor,” or any other specialist solely engaged in the business of financial planning or giving advice relating to investments, insurance, real estate, tax matters or trust and estate matters. This provision does not preclude insurance producers who hold some form of formal recognized financial planning or consultant certification or designation from using this certification or designation when they are only selling insurance.

b. An insurance producer shall not engage in the business of financial planning without disclosing to the client prior to the execution of the agreement required by paragraph “c” or to the solicitation of the sale of a product or service that the producer is also an insurance producer and that a commission for the sale of an insurance product will be received in addition to a fee for financial planning, if such is the case. The disclosure requirement under this paragraph may be met by including the disclosure in any disclosure required by federal or state securities law.

c. An insurance producer shall not charge fees other than commissions unless such fees are based upon a written agreement signed by the client in advance of the performance of the services under the agreement. A copy of the agreement must be provided to the client at the time the agreement is signed by the client. The agreement must specifically state:

(1) The service for which the fee is to be charged;

(2) The amount of the fee to be charged or how it will be determined or calculated; and

(3) That the client is under no obligation to purchase any insurance product through the insurance producer or consultant.

The insurance producer shall retain a copy of the agreement for not less than three years after completion of services, and a copy shall be available to the commissioner upon request.

d. Producers shall not charge an additional fee for services that are customarily associated with the solicitation, negotiation or servicing of policies. This prohibition shall not apply to assigned risk policies and commercial property and casualty policies. Any additional fee that a producer intends to charge for assigned risk policies and commercial property and casualty policies must be fully disclosed to the insured.

e. Producers shall comply with rule 191—10.19(522B) in using senior-specific certifications and professional designations in the sale of life insurance and annuities.

**15.8(4) Suitability.** A producer shall not recommend to any person the purchase, sale or exchange of any life insurance policy, or any rider, endorsement or amendment thereto, without reasonable grounds to believe that the transaction or recommendation is not unsuitable for the person based upon reasonable inquiry concerning the person’s insurance objectives, financial situation and needs, age and other relevant information known by the producer. For purposes of this subrule, when a producer recommends a group life insurance policy, “person” shall refer to the intended group policyowner.

**15.8(5) Prohibited acts.**

a. For purposes of this subrule:

“Gift” means a rendering of anything of value in return for which legal consideration of equal or greater value is not given and received.

“Immediate family” shall include parent, mother-in-law, father-in-law, spouse, former spouse, brother, sister, brother-in-law, sister-in-law, son-in-law, daughter-in-law, child and stepchild. In

addition, “immediate family” shall include any other person who is supported, directly or indirectly, to a material extent by a producer.

“*Loan*” means an agreement to advance property, including but not limited to money, in return for the promise that payment will be made for use of the property.

b. A producer shall not:

(1) Solicit or accept, directly or indirectly, at any time, a personal loan from an insurance customer that in the aggregate exceeds \$250, unless the customer is:

1. A bank, savings and loan, credit union or other recognized lending entity; or
2. A member of the producer’s immediate family.

(2) Solicit or accept, directly or indirectly, at any time, a gift to the producer or to a member of the producer’s immediate family from an insurance customer that in the aggregate exceeds \$250, unless the customer is a member of the producer’s immediate family. A gift to a member of the producer’s immediate family shall be included in calculating the aggregate amount. A gift received by a member of the producer’s immediate family from a customer that is not a member of the producer’s immediate family in excess of the aggregate amount shall be deemed a violation of this subrule by the producer.

(3) Solicit or accept being named as a beneficiary, executor or trustee in a will, trust, insurance policy or annuity of a customer, unless the customer is a member of the producer’s immediate family.

(4) Evade or otherwise violate the spirit of this subrule by terminating a producer relationship with an insurance customer for the purpose of soliciting or accepting a loan or a gift, or for the purpose of being named as a beneficiary, executor or trustee in a will, trust, insurance policy or annuity that the producer otherwise would have been prohibited from soliciting or accepting by this subrule. A producer will not be in violation of this subrule if the producer has made a bona fide termination of the producer relationship with the insurance customer and has conducted no insurance or other business with the insurance customer for a period of three years.

c. Transactions which involve nominal interim ownership immediately precedent to transfer of ownership into a trust are exempt from this subrule.

**191—15.9(507B) Right to return a life insurance policy or annuity (free look).** The owner of an individual policy has the right, within ten days after receipt of a life insurance policy or annuity, to a free-look period. During this period, the policyowner may return the life insurance policy or annuity to the insurer at its home office, branch office, or to the producer through whom it was purchased. If so returned, the premium paid will be promptly refunded, the policy or annuity voided and the parties returned to the same position as if a policy or annuity had not been issued. If the transaction involved a replacement, the length of the free-look period will be determined according to 191—Chapter 16.

If the transaction involved a variable product, the amount to be refunded shall be determined according to the policy language. The calculations must comply with the relevant rule in either 191—Chapter 16, Replacement of Life Insurance and Annuities, or 191—Chapter 33, Variable Life Insurance Model Regulation.

**191—15.10(507B) Uninsured/underinsured automobile coverage—notice required.**

**15.10(1) Contents of notice.** Automobile insurance policies delivered in this state shall include a notice which contains and is limited to the following language:

**NOTICE REGARDING UNINSURED/UNDERINSURED COVERAGE**

Uninsured/underinsured coverage does not cover damage done to your vehicle. It provides benefits only for bodily injury caused by an uninsured or underinsured motorist. If you wish to be insured for damage done to your vehicle, you must have collision coverage. Please check your policy to make sure you have the coverage desired.

**15.10(2) Form of notice.** Notice may be provided on a separate form or may be stamped on the declaration page of the policy. The notice shall be provided in conjunction with all new policies issued. Notice may be provided at the time of application but shall in no case be provided later than the time of delivery of the new policy. Insurers may inform applicants that the notice in this rule is required by the insurance division.

**191—15.11(507B) Unfair discrimination.****15.11(1) *Sex discrimination.***

*a.* A contract shall not be denied to an individual based solely on that individual's sex or marital status. No benefits, terms, conditions or type of coverage shall be restricted, modified, excluded, or reduced on the basis of the sex or marital status of the insured or prospective insured except to the extent permitted under the Iowa Code or Iowa Administrative Code. An insurer may consider marital status for the purpose of defining individuals eligible for dependents' benefits. This subrule does not apply to group life insurance policies or group annuity contracts issued in connection with pension and welfare plans which are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA).

*b.* Specific examples of practices prohibited by this subrule include, but are not limited to, the following:

(1) Denying coverage to individuals of one sex employed at home, employed part-time or employed by relatives when coverage is offered to individuals of the opposite sex similarly employed.

(2) Denying policy riders to persons of one sex when the riders are available to persons of the opposite sex.

(3) Denying a policy under which maternity coverage is available to an unmarried female when that same policy is available to a married female.

(4) Denying, under group contracts, dependent coverage to spouses of employees of one sex, when dependent coverage is available to spouses of employees of the opposite sex.

(5) Denying disability income coverage to employed members of one sex when coverage is offered to members of the opposite sex similarly employed.

(6) Treating complications of pregnancy differently from any other illness or sickness under the contract.

(7) Restricting, reducing, modifying, or excluding benefits relating to coverage involving the genital organs of only one sex.

(8) Offering lower maximum monthly benefits to members of one sex than to members of the opposite sex who are in the same underwriting and occupational classification under a disability income contract.

(9) Offering more restrictive benefit periods and more restrictive definitions of disability to members of one sex than to members of the opposite sex in the same underwriting and occupational classifications under a disability income contract.

(10) Establishing different contract conditions based on gender which limit the benefit options a policyholder may exercise.

(11) Limiting the amount of coverage due to an insured's or prospective insured's marital status unless such limitation applies only to coverage for dependents and is uniformly applied to males and females.

*c.* When rates are differentiated on the basis of sex, an insurer must, upon the request of the commissioner of insurance, justify the rate differential in writing to the satisfaction of the commissioner. All rates shall be based on sound actuarial principles or a valid classification system and actual experience statistics, if available.

*d.* This subrule shall not affect the right of fraternal benefit societies to determine eligibility requirements for membership. If a fraternal benefit society does, however, admit members of both sexes, this subrule is applicable to the insurance benefits available to its members.

**15.11(2) *Physical or mental impairment.*** No contract, benefits, terms, conditions or type of coverage shall be denied, restricted, modified, excluded or reduced solely on the basis of physical or mental impairment of the insured or prospective insured except where based on sound actuarial principles or related to actual or reasonably anticipated experience. For purposes of this subrule, both blindness and partial blindness shall be considered a physical impairment.

**15.11(3) *Income discrimination.*** An insurer shall not refuse to issue, limit the amount or apply different rates to individuals of the same class in the sale of individual life insurance based solely upon the prospective insured's legal source or level of income, unless such action is based on sound actuarial

principles or is related to actual or reasonably anticipated experience. The portion of this subrule pertaining to level of income does not:

- a.* Apply to the sale of disability income insurance of any kind or of any insurance designed to protect against economic loss due to a disruption in the regular flow of an individual's earned income;
- b.* Prohibit the sale of any insurance or annuity which is made available only to employees;
- c.* Prohibit basing the amount of insurance sold to an employee on a multiple or a percentage of the employee's salary or prohibit limiting availability to employees who have achieved a certain employment status as defined by the employer;
- d.* Prohibit insurers from providing life or health insurance as an incidental benefit through a qualified pension plan;
- e.* Prohibit insurers from applying suitability standards which include income as a factor in the sale of any life insurance or annuity products;
- f.* Prohibit insurers from establishing maximum or minimum amounts of insurance that will be issued to individuals so long as this is pursuant to a preexisting specialized marketing strategy which the insurer can demonstrate is related to the financial capacity of the insurer to write business or to bona fide transaction costs.

**15.11(4) *Domestic abuse.*** A contract shall not be denied to an individual based solely on the fact that such individual has been or is believed to have been a victim of domestic abuse as defined in Iowa Code section 236.2.

**15.11(5) *Genetic information.*** Any action by an insurer that is not in compliance with Title I of the Genetic Information Nondiscrimination Act of 2008 (Public Law 110-233, 122 Stat. 881) shall be considered an unfair trade practice and shall be subject to the penalties of Iowa Code chapter 507B and of these rules.

**15.11(6) *Discrimination relating to children under the age of 19.*** It is an unfair trade practice to:

- a.* Encourage individuals or groups to refrain from filing an application with an insurer for coverage for a child under the age of 19 because of the child's health status, claims experience, industry, occupation, or geographic location;
- b.* Encourage or direct children under the age of 19 to seek coverage from another insurer because of the child's health status, claims experience, industry, occupation, or geographic location; and
- c.* Encourage an employer to exclude an employee from coverage.

[ARC 7796B, IAB 5/20/09, effective 5/22/09; ARC 7965B, IAB 7/15/09, effective 8/19/09; ARC 9498B, IAB 5/4/11, effective 6/8/11]

#### **191—15.12(507B) Testing restrictions of insurance applications for the human immunodeficiency virus.**

**15.12(1) *Written release.*** No insurer shall obtain a test of any individual in connection with an application for insurance for the presence of an antibody to the human immunodeficiency virus unless the individual to be tested provides a written release on a form which contains the following information:

- a.* A statement of the purpose, content, use, and meaning of the test.
- b.* A statement regarding disclosure of the test results including information explaining the effect of releasing the information to an insurer.
- c.* A statement of the purpose for which test results may be used.

**15.12(2) *Form.*** A preapproved form is provided in Appendix II. An insurer wishing to utilize a form which deviates from the language in the appendix to these rules shall submit the form to the insurance division for approval. Any form containing, but not limited to, the language in the appendix shall be deemed approved.

**15.12(3) *Test results.*** A person engaged in the business of insurance who receives results of a positive human immunodeficiency virus (HIV) test in connection with an application for insurance shall report those results to a physician or alternative testing site of the applicant's or policyholder's choice or, if the applicant or policyholder does not choose a physician or alternative testing site to receive the results, to the Iowa department of public health.

#### **191—15.13(507B) Records maintenance.**

**15.13(1) *Complaint and business records.***

*a.* An insurer shall maintain its books, records, documents and other business records in such an order that data regarding complaints, claims, rating, underwriting and marketing are accessible and retrievable for examination by the insurance commissioner.

*b.* An insurer shall maintain a complete record of all the complaints received since the date of its last examination by the insurer's state of domicile or port-of-entry state. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint. Appendix IV sets forth the minimum information required to be contained in the complaint record.

**15.13(2) *Insurer's control over advertisements.*** Every insurer shall establish and at all times maintain a system of control over the content, form, and method of dissemination of all advertisements which explain a particular policy. All such advertisements, whether written, created, designed or presented by the insurer or its appointed producer, shall be the responsibility of the insurer whose particular policies are so advertised. As part of this requirement, each insurer shall maintain at its home or principal office a complete file containing a specimen copy of every printed, published or prepared advertisement of its policies, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. Such file shall be subject to inspection by the insurance division. All such advertisements shall be maintained for a period of either four years or until the filing of the next regular report on examination of the insurer, whichever is the longer period of time.

**15.13(3) *Education and training materials.*** Every insurer shall establish and maintain a system of control over the content and form of all material used by the insurer or any of its employees for the recruitment, training, and education of producers in the sale of insurance. Upon request, copies of these materials shall be made available to the commissioner.

**191—15.14(505,507B) Enforcement section—cease and desist and penalty orders.**

**15.14(1)** If, after hearing, the commissioner determines that a person has engaged in an unfair trade practice in violation of these rules, an unfair method of competition, or an unfair or deceptive act or practice in violation of Iowa Code chapter 507B, the commissioner shall reduce the findings to writing and shall issue and cause to be served upon the person charged with the violation a copy of such findings and an order requiring the person to cease and desist from engaging in such method of competition, act or practice. The commissioner also may order one or more of the following:

*a.* Payment of a civil penalty of not more than \$1,000 for each act or violation, but not to exceed an aggregate penalty of \$10,000, unless the person knew or reasonably should have known that the actions were in violation of these rules or of Iowa Code chapter 507B, in which case the penalty shall be not more than \$5,000 for each act or violation, but not to exceed an aggregate penalty of \$50,000 in any one six-month period. If the commissioner finds that a violation of these rules or of Iowa Code chapter 507B was directed, encouraged, condoned, ignored, or ratified by the employer of the person or by an insurer, the commissioner shall also assess a fine to the employer or insurer;

*b.* Suspension or revocation of an insurer's certificate of authority or the producer's license if the insurer or producer knew or reasonably should have known that it was in violation of these rules or of Iowa Code chapter 507B;

*c.* Payment of interest at the rate of 10 percent per annum if the commissioner finds that the insurer failed to pay interest as required under Iowa Code section 507B.4, subsection 12;

*d.* Full disclosure by the insurer of all terms and conditions of the policy to the policyowner;

*e.* Payment of the costs of the investigation and administrative expenses related to any act or violation. The commissioner may retain funds collected pursuant to any settlement, enforcement action, or other legal action authorized under federal or state law for the purpose of reimbursing costs and expenses of the division.

**15.14(2)** Any person who violates a cease and desist order of the commissioner while such order is in effect may, after notice and hearing and upon order of the commissioner, be subject at the discretion of the commissioner to one or both of the following:

*a.* A civil penalty of not more than \$10,000 for each and every act or violation.

- b. Suspension or revocation of such person's license.

**191—15.15 to 15.30** Reserved.

DIVISION II  
CLAIMS

**191—15.31(507B) General claims settlement guidelines.** No insurer shall issue checks or drafts in partial settlement of a loss or claim under a specific coverage that contains language purporting to release the insurer or its insured from total liability.

**191—15.32(507B) Prompt payment of certain health claims.** Effective July 1, 2002, the following provisions apply:

**15.32(1) Definitions and scope.**

- a. For purposes of this rule, the following definitions apply:

*"Circumstance requiring special treatment"* means:

1. A claim that an insurer has a reasonable basis to suspect may be fraudulent or that fraud or a material misrepresentation may have occurred under the benefit certificate or policy or in obtaining such certificate or policy; or
2. A matter beyond the insurer's control, such as an act of God, insurrection, strike or other similar labor dispute, fire or power outage or, for a group-sponsored health plan, the failure of the sponsoring group to pay premiums to the insurer in a timely manner; or
3. Similar unique or special circumstances which would reasonably prevent an insurer from paying an otherwise clean claim within 30 days.

*"Clean claim"* means clean claim as defined in 2001 Iowa Acts, chapter 69, section 8(2b).

*"Coordination of benefits for third-party liability"* means a claim for benefits by a covered individual who has coverage under more than one health benefit plan.

*"Insurer"* means insurer as defined in 2001 Iowa Acts, chapter 69, section 7.

*"Properly completed billing instrument"* means:

1. In the case of a health care provider that is not a health care professional:
  - The Health Care Finance Administration (HCFA) Form 1450, also known as Form UB-92, or similar form adopted by its successor Centers for Medicare/Medicaid Services (CMS) as adopted by the National Uniform Billing Committee (NUBC) with data element usage prescribed in the UB-92 National Uniform Billing Data Elements Specification Manual, or
  - The electronic format for institutional claims adopted as a standard by the Secretary of Health and Human Services pursuant to Section 1173 of the Social Security Act; or
2. In the case of a health care provider that is a health care professional:
  - The HCFA Form 1500 paper form or its successor as adopted by the National Uniform Claim Committee (NUCC) and further defined by the NUCC in its implementation guide; or
  - The electronic format for professional claims adopted as a standard by the Secretary of Health and Human Services pursuant to Section 1173 of the Social Security Act; and
3. Any other information reasonably necessary for an insurer to process a claim for benefits under the benefit certificate or policy with the insured contract.

- b. Scope. This subrule applies to claims submitted to an insurer as defined above on or after July 1, 2002, and is limited to policies issued, issued for delivery, or renewed in this state.

**15.32(2) Insurer duty to promptly pay claims and pay interest.**

- a. Insurers subject to this subrule shall either accept and pay or deny a clean claim for health care benefits under a benefit certificate or policy issued by the insurer within 30 days after the insurer's receipt of such claim. A clean claim is considered to be paid on the date upon which a check, draft, or other valid negotiable instrument is written. Insurers shall implement procedures to ensure that these payments are promptly delivered.

- b. Insurers or entities that administer or process claims on behalf of an insurer who fail to pay a clean claim within 30 days after the insurer's receipt of a properly completed billing instrument shall



pay interest. Interest shall accrue at the rate of 10 percent per annum commencing on the thirty-first day after the insurer's receipt of all information necessary to establish a clean claim. Interest will be paid to the claimant or provider based upon who is entitled to the benefit payment.

c. Insurers shall have 30 days from the receipt of a claim to request additional information to establish a clean claim. An insurer shall provide a written or electronic notice to the claimant or health care provider if additional information is needed to establish a clean claim. The notice shall include a full explanation of the information necessary to establish a clean claim.

d. Effective January 1, 2003, when a claim involves coordination of benefits, an insurer is required to comply with the requirements of this subrule when that insurer's liability has been determined.

**15.32(3) *Certain insurance products exempt.*** Claims paid under the following insurance products are exempt from the provisions of this subrule: liability insurance, workers' compensation or similar insurance, automobile or homeowners insurance, medical payment insurance or disability income insurance.

This rule is intended to implement Iowa Code sections 507B.4A and 514G.111 and 2015 Iowa Acts, House File 632, section 21.

[ARC 2296C, IAB 12/9/15, effective 1/13/16]

#### **191—15.33(507B) Audit procedures for medical claims.**

**15.33(1) *Prohibitions.*** This rule applies to all claims paid on or after January 1, 2002:

a. Absent a reasonable basis to suspect fraud, an insurer may not audit a claim more than two years after the submission of the claim to the insurer. Nothing in this rule prohibits an insurer from requesting all records associated with the claim.

b. Absent a reasonable basis to suspect fraud, an insurer may not audit a claim with a billed charge of less than \$25.

**15.33(2) *Standards.***

a. In auditing a claim, the insurer must make a reasonable effort to ensure that the audit is performed by a person or persons with appropriate qualifications for the type of audit being performed.

b. In auditing a claim, the auditor must use the coding guidelines and instructions that were in effect on the date the medical service was provided.

**15.33(3) *Contents of audit request.*** All correspondence regarding the audit of a claim must include the following information:

a. The name, address, telephone number and contact person of the insurer conducting the audit,

b. The name of the entity performing the audit if not the insurer,

c. The purpose of the audit, and

d. If included in the audit, the specific coding or billing procedure that is under review.

This rule is intended to implement Iowa Code section 507B.4, subsection 9, as amended by 2001 Iowa Acts, chapter 69.

#### **191—15.34 to 15.40 Reserved.**

**191—15.41(507B) Claims settlement guidelines for property and casualty insurance.** For purposes of this rule, "insurer" means property and casualty insurers.

**15.41(1)** An insurer shall fully disclose to first-party claimants all pertinent benefits, coverages or other provisions of a policy or contract under which a claim is presented.

**15.41(2)** Within 30 days after receipt by the insurer of properly executed proofs of loss, the first-party property claimant shall be advised of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to such provision, condition, or exclusion is included in the denial. The denial must be given to the claimant in writing, and the claim file of the insurer shall contain documentation of the denial.

When there is a reasonable basis supported by specific information available for review by the commissioner that the first-party claimant has fraudulently caused or contributed to the loss, the insurer is relieved from the requirements of this subrule. However, the claimant shall be advised of the acceptance

or denial of the claim within a reasonable time for full investigation after receipt by the insurer of a properly executed proof of loss.

**15.41(3)** If the insurer needs more time to determine whether a first-party claim should be accepted or denied, the insurer shall so notify the first-party claimant within 30 days after receipt of the proof of loss and give the reasons more time is needed. If the investigation remains incomplete, the insurer shall, 45 days from the initial notification and every 45 days thereafter, send to the claimant a letter setting forth the reasons additional time is needed for investigation.

When there is a reasonable basis supported by specific information available for review by the commissioner for suspecting that the first-party claimant has fraudulently caused or contributed to the loss, the insurer is relieved from the requirements of this subrule. However, the claimant shall be advised of the acceptance or denial of the claim by the insurer within a reasonable time for full investigation after receipt by the insurer of a properly executed proof of loss.

**15.41(4)** Insurers shall not fail to settle first-party claims on the basis that responsibility for payment should be assumed by others except as may otherwise be provided by policy provisions.

**15.41(5)** No insurer shall make statements indicating that the rights of a third-party claimant may be impaired if a form or release, other than a release to obtain medical records, is not completed within a given period of time unless the statement is given for the purpose of notifying the third-party claimant of the provision of a statute of limitations.

**15.41(6)** The insurer shall affirm or deny liability on claims within a reasonable time and shall tender payment within 30 days of affirmation of liability, if the amount of the claim is determined and not in dispute. In claims where multiple coverages are involved, payments which are not in dispute under one of the coverages and where the payee is known should be tendered within 30 days if such payment would terminate the insurer's known liability under that coverage.

**15.41(7)** No producer shall conceal from a first-party claimant benefits, coverages or other provisions of any insurance policy or insurance contract when such benefits, coverages or other provisions are pertinent to a claim.

**15.41(8)** A claim shall not be denied on the basis of failure to exhibit property unless there is documentation of breach of the policy provisions to exhibit or cooperate in the claim investigation.

**15.41(9)** No insurer shall deny a claim based upon the failure of a first-party claimant to give written notice of loss within a specified time limit unless the written notice is a written policy condition. An insurer may deny a claim if the claimant's failure to give written notice after being requested to do so is so unreasonable as to constitute a breach of the claimant's duty to cooperate with the insurer.

**15.41(10)** No insurer shall indicate to a first-party claimant on a payment draft, check or in any accompanying letter that said payment is "final" or "a release" of any claim unless the policy limit has been paid or there has been a compromise settlement agreed to by the first-party claimant and the insurer as to coverage and amount payable under the contract.

**15.41(11)** No insurer shall request or require any insured to submit to a polygraph examination unless authorized under the applicable insurance contracts and state law.

**191—15.42(507B) Acknowledgment of communications by property and casualty insurers.** For purposes of this rule, "insurer" means property and casualty insurers.

**15.42(1)** Upon receiving notification of a claim, an insurer shall, within 15 days, acknowledge the receipt of such notice unless payment is made within that period of time. If an acknowledgment is made by means other than in writing, an appropriate notation of the acknowledgment shall be made in the claim file of the insurer and dated.

**15.42(2)** Upon receipt of any inquiry from the Iowa insurance division regarding a claim, an insurer shall, within 21 days of receipt of such inquiry, furnish the division with an adequate response to the inquiry, in duplicate.

**15.42(3)** The insurer shall reply within 15 days to all pertinent communications from a claimant which reasonably suggest that a response is expected.

**15.42(4)** Upon receiving notification of claim, an insurer shall promptly provide necessary claim forms, instructions and reasonable assistance so that first-party claimants can comply with the policy

conditions and the insurer's reasonable requirements. Compliance with this subrule within 15 days of notification of a claim shall constitute compliance with subrule 15.42(1).

**191—15.43(507B) Standards for settlement of automobile insurance claims.**

**15.43(1) Loss calculation and deviation guidelines.**

*a. Loss calculation.* When the insurance policy provides for the adjustment and settlement of first-party automobile total losses on the basis of actual cash value or replacement with another automobile of like kind and quality, one of the following methods shall apply:

(1) The insurer may elect to offer a replacement automobile that is at least comparable in that it will be by the same manufacturer, same or newer year, similar body style, similar options and mileage as the insured vehicle and in as good or better overall condition and available for inspection at a licensed dealer within a reasonable distance of the insured's residence. All applicable taxes, license fees and other fees incident to the transfer of evidence of ownership of the automobile shall be paid by the insurer, at no cost to the insured, other than any deductible provided in the policy. The offer and any rejection thereof must be documented in the claim file.

(2) The insurer may elect a cash settlement based upon the actual cost, less any deductible provided in the policy, to purchase a comparable automobile including all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of a comparable automobile. Such cost may be derived from:

1. The cost of two or more comparable automobiles in the local market area when comparable automobiles are available or were available within the last 90 days to consumers in the local market area; or

2. The cost of two or more comparable automobiles in areas proximate to the local market area, including the closest major metropolitan areas within or without the state, that are available or were available within the last 90 days to consumers when comparable automobiles are not available in the local market area; or

3. One of two or more quotations obtained by the insurer from two or more licensed dealers located within the local market area when the cost of comparable automobiles is not available; or

4. Any source for determining statistically valid fair market values that meet all of the following criteria:

- The source shall give primary consideration to the values of vehicles in the local market area and may consider data on vehicles outside the area.

- The source's database shall produce values for at least 85 percent of all makes and models for the last 15 model years taking into account the values of all major options for such vehicles.

- The source shall produce fair market values based on current data available from the area surrounding the location where the insured vehicle was principally garaged or a necessary expansion of parameters (such as time and area) to ensure statistical validity.

(3) If the insurer is notified within 35 days of the receipt of the claim draft that the insured cannot purchase a comparable vehicle for such market value, the insured shall have a right of recourse. The insurer shall reopen its claim file and the following procedure(s) shall apply:

1. The insurer may locate a comparable vehicle by the same manufacturer, same or newer year, similar body style and similar options and price range for the insured for the market value determined by the insurer at the time of settlement. Any such vehicle must be available through a licensed dealer; or

2. The insurer shall either pay the insured the difference between the market value before applicable deductions and the cost of the comparable vehicle of like kind and quality which the insured has located, or negotiate and effect the purchase of this vehicle for the insured; or

3. The insurer may elect to offer a replacement in accordance with the provisions set forth in subrule 15.43(1); or

4. The insurer may conclude the loss settlement as provided for under the appraisal section of the insurance contract in force at the time of loss. This appraisal shall be considered as binding against both parties, but shall not preclude or waive any other rights either party has under the insurance contract or a common law.

The insurer is not required to take action under this subrule if its documentation to the insured at the time of settlement included written notification of the availability and location of a specified and comparable vehicle of the same manufacturer, same or newer year, similar body style and similar options in as good or better condition as the total-loss vehicle which could have been purchased for the market value determined by the insurer before applicable deductions. The documentation shall include the vehicle identification number.

*b. Deviation.* When a first-party automobile total loss is settled on a basis which deviates from the methods described in paragraph “a,” the deviation must be supported by documentation giving particulars of the automobile’s condition. Any deductions from such cost, including deduction for salvage, must be measurable, discernible, itemized and specified as to dollar amount and shall be appropriate in amount. The basis for such settlement shall be fully explained to the first-party claimant.

**15.43(2)** Where liability and damages are reasonably clear, an insurer shall not recommend that third-party claimants make claims under their own policies solely to avoid paying claims under the insurer’s policy.

**15.43(3)** The insurer shall not require a claimant to travel an unreasonable distance either to inspect a replacement automobile, to obtain a repair estimate or to have the automobile repaired at a specific repair shop.

**15.43(4)** The insurer shall, upon the claimant’s request, include the first-party claimant’s deductible, if any, in subrogation demands. Subrogation recoveries shall be shared on a proportionate basis with the first-party claimant, unless the deductible amount has been otherwise recovered. No deduction for expenses shall be made from the deductible recovery unless an outside attorney is retained to collect such recovery. The deduction may then be for only a pro-rata share of the allocated loss adjustment expense.

**15.43(5)** Vehicle repairs. If partial losses are settled on the basis of a written estimate prepared by or for the insurer, the insurer shall supply the insured a copy of the estimate upon which the settlement is based. The estimate prepared by or for the insurer shall be reasonable, in accordance with applicable policy provisions, and of an amount which will allow for repairs to be made in a workmanlike manner. If the insured subsequently claims, based upon a written estimate which the insured obtains, that necessary repairs will exceed the written estimate prepared by or for the insurer, the insurer shall (1) pay the difference between the written estimate and a higher estimate obtained by the insured, or (2) promptly provide the insured with the name of at least one repair shop that will make the repairs for the amount of the written estimate. If the insurer designates only one or two such repair shops, the insurer shall ensure that the repairs are performed according to automobile industry standards. The insurer shall maintain documentation of all such communications.

**15.43(6)** When the amount claimed is reduced because of betterment or depreciation, all information for such reduction shall be contained in the claim file. Such deductions shall be itemized and specified as to dollar amount and shall be appropriate for the amount of deductions.

**15.43(7)** When the insurer elects to repair an automobile, the insurer shall cause the damaged automobile to be restored to its condition prior to the loss at no additional cost to the claimant other than as stated in the policy, within a reasonable period of time.

**15.43(8)** Storage and towing. The insurer shall provide reasonable notice to an insured prior to termination of payment for automobile storage charges. The insurer shall provide reasonable time for the insured to remove the vehicle from storage prior to the termination of payment. Unless the insurer has provided an insured with the name of a specific towing company prior to the insured’s use of another towing company, the insurer shall pay all reasonable towing charges.

**15.43(9)** Betterment. Betterment deductions are allowable only if the deductions reflect a measurable decrease in market value attributable to the poorer condition of, or prior damage to, the vehicle. Betterment deductions must be measurable, itemized, specified as to dollar amount and documented in the claim file.

**15.43(10)** Diminished value. Rescinded IAB 4/28/04, effective 4/7/04.

**191—15.44(507B) Standards for determining replacement cost and actual cost values.**

**15.44(1) *Replacement cost.*** When the policy provides for the adjustment and settlement of first-party losses based on replacement cost, the following shall apply:

*a.* When a loss requires repair or replacement of an item or part, any consequential physical damage incurred in making such repair or replacement not otherwise excluded by the policy shall be included in the loss. The insured shall not have to pay for betterment or any other cost except for the applicable deductible.

*b.* When a loss requires replacement of items and the replaced items do not match in quality, color or size, the insurer shall replace as much of the item as is necessary to result in a reasonably uniform appearance within the same line of sight. This subrule applies to interior and exterior losses. Exceptions may be made on a case-by-case basis. The insured shall not bear any cost over the applicable deductible, if any.

**15.44(2) *Actual cash value.***

*a.* When the insurance policy provides for the adjustment and settlement of losses on an actual cash value basis on residential fire and extended coverage, the insurer shall determine the actual cash value. “Actual cash value” means replacement cost of property at time of loss, less depreciation, if any. Alternatively, an insurer may use market value in determining actual cash value. Upon the insured’s request, the insurer shall provide a copy of the claim file worksheet(s) detailing any and all deductions for depreciation.

*b.* In cases in which the insured’s interest is limited because the property has nominal or no economic value, or a value disproportionate to replacement cost less depreciation, the determination of actual cash value as set forth above is not required. In such cases, the insurer shall provide, upon the insured’s request, a written explanation of the basis for limiting the amount of recovery along with the amount payable under the policy.

**15.44(3) *Applicability.*** This rule does not apply to automobile insurance claims.

**191—15.45(507B) Guidelines for use of aftermarket crash parts in motor vehicles.**

**15.45(1) *Identification.*** All aftermarket crash parts supplied for use in this state shall comply with the identification requirements of Iowa Code section 537B.4.

**15.45(2) *Like kind and quality.*** An insurer shall not require the use of aftermarket crash parts in the repair of an automobile unless the aftermarket crash part is certified by a nationally recognized entity to be at least equal in kind and quality to the original equipment manufacturer part in terms of fit, quality and performance, or that the part complies with federal safety standards.

**15.45(3) *Contents of notice.*** Any automobile insurance policy delivered in this state that pays benefits based on the cost of aftermarket crash parts or that requires the insured to pay the difference between the cost of original equipment manufacturer parts and the cost of aftermarket crash parts shall include a notice which contains and is limited to the following language:

NOTICE—PAYMENT FOR AFTERMARKET CRASH PARTS

Physical damage coverage under this policy includes payment for aftermarket crash parts. If you repair the vehicle using more expensive original equipment manufacturer (OEM) parts, you may pay the difference. Any warranties applicable to these replacement parts are provided by the manufacturer or distributor of these parts rather than the manufacturer of your vehicle.

**15.45(4) *Form of notice.*** Notice may be provided on a separate form or may be printed prominently on the declaration page of the policy. The notice shall be provided in conjunction with all new policies issued. Notice may be provided at the time of application, but shall in no case be provided later than the time of delivery of the new policy. Insurers may inform applicants that the insurance division requires the notice in this rule.

**191—15.46 to 15.50** Reserved.

DIVISION III  
DISCLOSURE FOR SMALL FACE AMOUNT LIFE INSURANCE POLICIES

**191—15.51(507B) Purpose.** The purpose of these rules is to ensure the provision of meaningful information to the purchasers of small face amount life insurance policies. The rules in this division apply to all small face amount policies not exempted under rule 191—15.53(507B) that are issued on or after July 1, 2004.

**191—15.52(507B) Definition.** “*Small face amount policy*” means a life insurance policy or certificate with an initial face amount of \$15,000 or less.

**191—15.53(507B) Exemptions.** These rules apply to all group and individual life insurance policies and certificates except:

1. Variable life insurance;
2. Individual and group annuity contracts;
3. Credit life insurance;
4. Group or individual policies of life insurance issued to members of an employer group or other permitted group when:
  - Every plan of coverage was selected by the employer or other group representative;
  - Some portion of the premium is paid by the group or through payroll deduction; and
  - Group underwriting or simplified underwriting is used; and
5. Policies and certificates where an illustration has been provided pursuant to the requirements of 191—Chapter 14.

**191—15.54(507B) Disclosure requirements.**

**15.54(1)** An insurer issuing a small face amount policy shall provide the disclosure included in Appendix IV if at any point in time over the term of the policy the cumulative premiums paid may exceed the face amount of the policy at that point in time. The required disclosure shall be provided to the policy owner or certificate holder no later than at the time the policy or certificate is delivered. The disclosure shall not be attached to the policy, but may be delivered with the policy.

**15.54(2)** If, for a particular policy form, the cumulative premiums may exceed the face amount for some demographic or benefit combination but not for all combinations, the insurer may choose to either:

- a. Provide the disclosure only in those circumstances when the premiums may exceed the face amount; or
- b. Provide the disclosure for all demographic and benefit combinations.

**15.54(3)** Cumulative premiums shall include premiums paid for riders. However, the face amount shall not include the benefit attributable to the riders.

**191—15.55(507B) Insurer duties.** The insurer and its producers shall have a duty to provide information to policyholders or certificate holders that ask questions about the disclosure statement.

**191—15.56 to 15.60** Reserved.

DIVISION IV  
ANNUITY DISCLOSURE REQUIREMENTS

**191—15.61(507B) Purpose.** The purpose of the rules in Division IV of this chapter is to provide standards for the disclosure of certain minimum information about annuity contracts to protect consumers and to foster consumer education. The rules specify the minimum information which must be disclosed, the method for disclosing it and the use and content of illustrations, if used, in connection with the sale of annuity contracts. The goal of these rules is to ensure that purchasers of annuity contracts understand certain basic features of annuity contracts.

[ARC 0035C, IAB 3/7/12, effective 4/11/12]

**191—15.62(507B) Applicability and scope.** These rules apply to all annuities not exempted under this rule 191—15.62(507B) for which applications are taken on or after January 1, 2013, except that rule 191—15.66(507B) applies to all annuities not exempted under this rule 191—15.62(507B) which are in effect or for which applications are taken on or after January 1, 2013, and except that rule 191—15.67(507B) applies to all annuity contracts not exempted under this rule 191—15.62(507B) which are in effect on or after January 1, 2013. These rules apply to all group and individual annuity contracts and certificates except:

**15.62(1)** Immediate and deferred annuities that contain no nonguaranteed elements;

**15.62(2)** Annuities used to fund:

*a.* An employee pension plan which is covered by the Employee Retirement Income Security Act (ERISA);

*b.* A plan described by Section 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer;

*c.* A governmental or church plan defined in Section 414 of the Internal Revenue Code or a deferred compensation plan of a state or local government or a tax exempt organization under Section 457 of the Internal Revenue Code; or

*d.* A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

Notwithstanding this subrule 15.62(2), these rules shall apply to annuities used to fund a plan or arrangement that is funded solely by contributions an employee elects to make whether on a pretax or after-tax basis, and where the insurance company has been notified that plan participants may choose from among two or more fixed annuity providers and there is a direct solicitation of an individual employee by a producer for the purchase of an annuity contract. As used in this subrule, direct solicitation shall not include any meeting held by a producer solely for the purpose of educating or enrolling employees in the plan or arrangement;

**15.62(3)** Structured settlement annuities;

**15.62(4)** Charitable gift annuities as defined in Iowa Code chapter 508F;

**15.62(5)** Nonregistered variable annuities issued exclusively to an accredited investor or qualified purchaser as those terms are defined by the Securities Act of 1933 (15 U.S.C. Section 77a et seq.), the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), or the regulations promulgated under either of those acts, and offered for sale and sold in a transaction that is exempt from registration under the Securities Act of 1933 (15 U.S.C. Section 77a et seq.); and

**15.62(6)** Transactions involving variable annuities and other registered products in compliance with Securities and Exchange Commission (SEC) rules and Financial Industry Regulatory Authority (FINRA) rules relating to disclosures and illustrations, provided that compliance with rule 191—15.64(507B) shall be required after January 1, 2015, unless, or until such time as, the SEC has adopted a summary prospectus rule or FINRA has approved for use a simplified disclosure form applicable to variable annuities or other registered products.

*a.* Notwithstanding this subrule 15.62(6), the delivery of the Buyer's Guide is required in sales of variable annuities and, when appropriate, in sales of other registered products.

*b.* Nothing in this subrule 15.62(6) shall limit the commissioner's ability to enforce the provisions of these rules or to require additional disclosure.

[ARC 0035C, IAB 3/7/12, effective 4/11/12]

**191—15.63(507B) Definitions.** For purposes of these rules:

*"Buyer's Guide"* means the National Association of Insurance Commissioners' approved Annuity Buyer's Guide.

*"Contract owner"* means the owner named in the annuity contract or the certificate holder in the case of a group annuity contract.

*"Determinable elements"* means elements that are derived from processes or methods that are guaranteed at issue and not subject to company discretion, but where the values or amounts cannot be determined until some point after the contract is issued. These elements include the premiums, credited

interest rates (including any bonus), benefits, values, non-interest-based credits, charges, or elements of formulas used to determine any of these elements. These elements may be described as guaranteed but not determined at issue. An element is considered determinable if it was calculated from underlying determinable elements only, or from both determinable and guaranteed elements.

*“Funding agreement”* means an agreement for an insurer to accept and accumulate funds and to make one or more payments at future dates in amounts that are not based on mortality or morbidity contingencies.

*“Generic name”* means a short title descriptive of the annuity contract for which application is made or an illustration is prepared, such as “single premium deferred annuity.”

*“Guaranteed elements”* means the premiums, credited interest rates (including any bonus), benefits, values, non-interest-based credits, charges, or elements of formulas used to determine any of these elements, that are guaranteed and determined at issue. An element is considered guaranteed if all of the underlying elements that go into its calculation are guaranteed.

*“Illustration”* means a personalized presentation or depiction that is prepared for and provided to an individual consumer and that includes nonguaranteed elements of an annuity contract over a period of years.

*“Market value adjustment”* or *“MVA”* is a positive or negative adjustment that may be applied to the account value or cash value of the annuity upon withdrawal, surrender, contract annuitization or death benefit payment based either on the movement of an external index or on the company’s current guaranteed interest rate being offered on new premiums or new rates for renewal periods, if that withdrawal, surrender, contract annuitization or death benefit payment occurs at a time other than on a specified guaranteed benefit date.

*“Nonguaranteed elements”* means the premiums, credited interest rates (including any bonus), benefits, values, non-interest-based credits, charges or elements of formulas used to determine any of these elements, that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

*“Structured settlement annuity”* means a “qualified funding asset” as defined in Section 130(d) of the Internal Revenue Code or an annuity that would be a qualified funding asset under Section 130(d) but for the fact that it is not owned by an assignee under a qualified assignment.

[ARC 0035C, IAB 3/7/12, effective 4/11/12]

## **191—15.64(507B) Standards for the disclosure document and Buyer’s Guide.**

**15.64(1) *Delivery methods.*** The documents required under this rule may be delivered as follows:

*a.* When an application for an annuity contract is taken in a face-to-face meeting, the applicant shall be given at or before the time of application both the disclosure document described in rule 191—15.65(507B) and the Buyer’s Guide, if any.

*b.* When an application for an annuity contract is taken by means other than a face-to-face meeting, the applicant shall be sent both the disclosure document and the Buyer’s Guide no later than five business days after the completed application is received by the insurer.

*c.* When an application is received as a result of direct solicitation through the mail:

(1) Providing a Buyer’s Guide in a mailing inviting prospective applicants to apply for an annuity contract shall be deemed to satisfy the requirement that the Buyer’s Guide be provided no later than five business days after receipt of the application.

(2) Providing a disclosure document in a mailing inviting a prospective applicant to apply for an annuity contract shall be deemed to satisfy the requirement that the disclosure document be provided no later than five business days after receipt of the application.

*d.* When an application is received via the Internet:

(1) Taking reasonable steps to make the Buyer’s Guide available for viewing and printing on the insurer’s Web site shall be deemed to satisfy the requirement that the Buyer’s Guide be provided no later than five business days after receipt of the application.



(2) Taking reasonable steps to make the disclosure document available for viewing and printing on the insurer's Web site shall be deemed to satisfy the requirement that the disclosure document be provided no later than five business days after receipt of the application.

**15.64(2) *Free Buyer's Guide.*** A solicitation for an annuity contract provided in other than a face-to-face meeting shall include a statement that the proposed applicant may contact the Iowa insurance division for a free Buyer's Guide. In lieu of the foregoing statement, an insurer may include a statement that the prospective applicant may contact the insurer for a free Buyer's Guide.

**15.64(3) *Free-look period.*** When the Buyer's Guide and disclosure document are not provided at or before the time of application, a free-look period of no less than 15 days shall be provided for the applicant to return the annuity contract without penalty. This free look shall run concurrently with any other free look provided under state law or rule.

[ARC 0035C, IAB 3/7/12, effective 4/11/12]

#### **191—15.65(507B) Content of disclosure documents.**

**15.65(1)** At a minimum, the following information shall be included in the disclosure document required to be provided under these rules:

- a. The generic name of the contract, the company product name, if different, and form number and the fact that it is an annuity;
- b. The insurer's legal name, physical address, Web site address and telephone number;
- c. A description of the contract and its benefits, emphasizing its long-term nature, including examples where appropriate, including but not limited to:

- (1) The guaranteed and nonguaranteed elements of the contract, and their limitations, if any, including for fixed indexed annuities, the elements used to determine the index-based interest, such as the participation rates, caps or spread, and an explanation of how they operate;

- (2) An explanation of the initial crediting rate, or for fixed indexed annuities, an explanation of how the index-based interest is determined, specifying any bonus or introductory portion, the duration of the rate and the fact that rates may change from time to time and are not guaranteed;

- (3) Periodic income options both on a guaranteed and nonguaranteed basis;

- (4) Any value reductions caused by withdrawals from or surrender of the contract;

- (5) How values in the contract can be accessed;

- (6) The death benefit, if available, and how it will be calculated;

- (7) A summary of the federal tax status of the contract and any penalties applicable on withdrawal of values from the contract; and

- (8) Impact of any rider including, but not limited to, a guaranteed living benefit or a long-term care rider;

- d. Specific dollar amount or percentage charges and fees, listed with an explanation of how they apply; and

- e. Information about the current guaranteed rate or indexed crediting rate formula, if applicable, for new contracts that contains a clear notice that the rate is subject to change.

**15.65(2)** Insurers shall define terms used in the disclosure statement in language that facilitates understanding by a typical individual within the segment of the public to which the disclosure statement is directed.

[ARC 0035C, IAB 3/7/12, effective 4/11/12]

#### **191—15.66(507B) Standards for annuity illustrations.**

**15.66(1)** An insurer or producer may elect to provide a consumer an illustration at any time, provided that the illustration is in compliance with this rule and:

- a. Is clearly labeled as an illustration;
- b. Includes a statement referring consumers to the disclosure document and Buyer's Guide provided to them at time of purchase for additional information about their annuity; and
- c. Is prepared by the insurer or third party using software that is authorized by the insurer prior to its use, provided that the insurer maintains a system of control over the use of illustrations.

**15.66(2)** An illustration furnished an applicant for a group annuity contract or contracts issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.

**15.66(3)** The illustration shall not be provided unless accompanied by the disclosure document referenced in rules 191—15.64(507B) and 191—15.65(507B).

**15.66(4)** When an illustration is used, the illustration shall not:

- a. Describe nonguaranteed elements in a manner that is misleading or has the capacity or tendency to mislead;
- b. State or imply that the payment or amount of nonguaranteed elements is guaranteed; or
- c. Be incomplete.

**15.66(5)** Costs and fees of any type shall be individually noted and explained in the illustration.

**15.66(6)** An illustration shall conform to the following requirements:

- a. The illustration shall be labeled with the date on which it was prepared;
- b. Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the disclosure document (e.g., the fourth page of a seven-page disclosure document shall be labeled “page 4 of 7 pages”);
- c. The assumed dates of premium receipt and benefit payout within a contract year shall be clearly identified;
- d. If the age of the proposed insured is shown as a component of the tabular detail, the age shown shall be issue age plus the numbers of years the contract is assumed to have been in force;
- e. The assumed premium on which the illustrated benefits and values are based shall be clearly identified, including rider premium for any benefits being illustrated;
- f. Any charges for riders or other contract features assessed against the account value or the crediting rate shall be recognized in the illustrated values and shall be accompanied by a statement indicating the nature of the rider benefits or the contract features and indicating whether or not they are included in the illustration;
- g. Guaranteed death benefits and values available upon surrender, if any, for the illustrated contract premium shall be shown and clearly labeled as guaranteed;
- h. Except as provided by paragraph 15.66(6)“v,” nonguaranteed elements underlying the nonguaranteed illustrated values shall be no more favorable than current nonguaranteed elements and shall not include any assumed future improvement of such elements. Additionally, nonguaranteed elements used in calculating nonguaranteed illustrated values at any future duration shall reflect any planned changes, including any planned changes that may occur after expiration of an initial guaranteed or bonus period;
- i. In determining the nonguaranteed illustrated values for a fixed indexed annuity, the index-based interest rate and account value shall be calculated for three different scenarios: one to reflect historical performance of the index for the most recent 10 calendar years; one to reflect the historical performance of the index for the continuous period of 10 calendar years out of the last 20 calendar years that would result in the least index value growth (the “low scenario”); one to reflect the historical performance of the index for the continuous period of 10 calendar years out of the last 20 calendar years that would result in the most index value growth (the “high scenario”). The following requirements apply:
  - (1) The most recent 10 calendar years and the last 20 calendar years are defined to end on the prior December 31, except for illustrations prepared during the first three months of the year, for which the end date of the calendar year period may be the December 31 prior to the last full calendar year;
  - (2) If any index utilized in determination of an account value has not been in existence for at least 10 calendar years, indexed returns for that index shall not be illustrated. If the fixed indexed annuity provides an option to allocate account value to more than one indexed or fixed declared rate account, and one or more of those indexes has not been in existence for at least 10 calendar years, the allocation to such indexed account shall be assumed to be zero;
  - (3) If any index utilized in determination of an account value has been in existence for at least 10 calendar years but less than 20 calendar years, the 10-calendar-year periods that define the low and high scenarios shall be chosen from the exact number of years the index has been in existence;

(4) The nonguaranteed elements, such as caps, spreads, participation rates or other interest crediting adjustments, used in calculating the nonguaranteed index-based interest rate shall be no more favorable than the corresponding current elements;

(5) If a fixed indexed annuity provides an option to allocate the account value to more than one indexed or fixed declared rate account:

1. The allocation used in the illustration shall be the same for all three scenarios; and

2. The 10-calendar-year periods resulting in the least and greatest index growth periods shall be determined independently for each indexed account option;

(6) The geometric mean annual effective rate of the account value growth over the 10-calendar-year period shall be shown for each scenario;

(7) If the most recent 10-calendar-year historical period experience of the index is shorter than the number of years needed to fulfill the requirement of subrule 15.66(8), the most recent 10-calendar-year historical period experience of the index shall be used for each subsequent 10-calendar-year period beyond the initial period for the purpose of calculating the account value for the remaining years of the illustration;

(8) The low and high scenarios:

1. Need not show surrender values (if different than account values);

2. Shall not extend beyond 10 calendar years (and therefore are not subject to the requirements of subrule 15.66(8) beyond subparagraph 15.66(8)“a”(1)); and

3. May be shown on a separate page. A graphical presentation shall also be included comparing the movement of the account value over the 10-calendar-year period for the low scenario, the high scenario and the most recent 10-calendar-year scenario; and

(9) The low and high scenarios should reflect the irregular nature of the index performance and should trigger every type of adjustment to the index-based interest rate under the contract. The effect of the adjustments should be clear; for example, additional columns showing how the adjustment applied may be included. If an adjustment to the index-based interest rate is not triggered in the illustration (because no historical values of the index in the required illustration range would have triggered it), the illustration shall so state;

*j.* The guaranteed elements, if any, shall be shown before corresponding nonguaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the nonguaranteed elements (e.g., “see page 1 for guaranteed elements”);

*k.* The account or accumulation value of a contract, if shown, shall be identified by the name this value is given in the contract being illustrated and shown in close proximity to the corresponding value available upon surrender;

*l.* The value available upon surrender shall be identified by the name this value is given in the contract being illustrated and shall be the amount available to the contract owner in a lump sum after deduction of surrender charges, bonus forfeitures, contract loans, contract loan interest and application of any market value adjustment, as applicable;

*m.* Illustrations may show contract benefits and values in graphic or chart form in addition to the tabular form;

*n.* Any illustration of nonguaranteed elements shall be accompanied by a statement indicating that:

(1) The benefits and values are not guaranteed;

(2) The assumptions on which they are based are subject to change by the insurer; and

(3) Actual results may be higher or lower;

*o.* Illustrations based on nonguaranteed credited interest and nonguaranteed annuity income rates shall contain equally prominent comparisons to guaranteed credited interest and guaranteed annuity income rates, including any guaranteed and nonguaranteed participation rates, caps or spreads for fixed indexed annuities;

*p.* The annuity income rate illustrated shall not be greater than the current annuity income rate unless the contract guarantees are in fact more favorable;

*q.* Illustrations shall be concise and easy to read;

*r.* Key terms shall be defined and then used consistently throughout the illustration;

- s. Illustrations shall not depict values beyond the maximum annuitization age or date;
- t. Annuitization benefits shall be based on contract values that reflect surrender charges or any other adjustments, if applicable;
- u. Illustrations shall show both annuity income rates per \$1,000 and the dollar amounts of the periodic income payable; and
- v. For participating immediate and deferred income annuities:
  - (1) Illustrations shall not assume any future improvement in the applicable dividend scale (or scales, if more than one dividend scale applies, such as for a flexible premium annuity);
  - (2) Illustrations shall reflect the equitable apportionment of dividends, whether performance meets, exceeds or falls short of expectations;
  - (3) If the dividend scale is based on a portfolio rate method, the portfolio rate underlying the illustrated dividend scale shall not be assumed to increase;
  - (4) If the dividend scale is based on an investment cohort method, the illustrated dividend scale shall assume that reinvestment rates grade to long-term interest rates, subject to the following conditions:
    - 1. Any assumptions as to future investment performance in the dividend formula shall be consistent with assumptions that are reflected in the marketplace within the normal range of analyst forecasts and investor behavior. These assumptions shall not be changed arbitrarily, notwithstanding changes in markets or economic conditions, and shall be consistent with assumptions that the insurer uses with respect to other lines of business.
    - 2. The illustrated dividend scale shall assume that reinvestment rates grade to long-term interest rates, based on the rates of U.S. Treasury bonds (U.S. Treasury rates). For the purposes of this grading, the assumed long-term rates shall not exceed the rates calculated using the formula in numbered paragraph 15.66(6)“v”(4)“3” based on the time to maturity or reinvestment (the “tenor”) of the investments supporting the cohort of policies.
    - 3. Maximum long-term interest rates shall be calculated for tenors of 3 months or less, 5 years, 10 years, and 20 years or more, using U.S. Treasury rates. For each tenor, the maximum long-term interest rate shall vary over time, based on historical interest rates as they emerge. The formula for the maximum long-term interest rate is the average of the median U.S. Treasury rate during the last 600 months and the average U.S. Treasury rate during the last 120 months, rounded to the nearest quarter of one percent (0.25%).
    - 4. The maximum long-term interest rate for a tenor shall be recalculated once per year, in January, using historical interest rates as of December 31 of the calendar year two years prior to the calendar year of the calculation date. The historical interest rate for each month is the interest rate reported for the last business day of the month.
    - 5. Grading to the maximum long-term interest rates shall take place during:
      - No less than 20 years from the issue date if U.S. Treasury rates as of the illustration date are below the long-term interest rates; or
      - No more than 20 years from the issue date if the U.S. Treasury rates as of the illustration date are above the long-term interest rates.
    - 6. When the ten-year U.S. Treasury rate is less than the ten-year maximum long-term interest rate, an additional illustrated dividend scale shall be presented. This additional illustrated dividend scale shall satisfy the following conditions:
      - Assume that reinvestment U.S. Treasury rates do not exceed the initial investment U.S. Treasury rates, and
      - Illustrate dividends of no less than half of the dividends illustrated under the current dividend scales.
  - If the conditions under the two prior bulleted paragraphs are in conflict (i.e., if half of the current dividends are greater than would be permitted by the condition under the first bulleted paragraph above), then the reinvestment U.S. Treasury rates shall equal the initial investment U.S. Treasury rates.
  - 7. The illustration shall include a disclosure that is substantially similar to the following:

The illustrated current dividend scale is based on interest rates that are assumed to gradually [increase/decrease] from current interest rates to

long-term interest rates during a period of [20] years. As required by state regulations, the long-term assumed interest rates cannot and do not exceed the rates listed in column (c) of the table below.

[Insert table from paragraph 15.66(6) “v”(4)“9”]

8. If the illustration contains an additional dividend scale pursuant to numbered paragraph 15.66(6) “v”(4)“6,” then the illustration also shall include a disclosure that is substantially similar to the following:

The additional illustrated dividend scale is based on interest rates that are assumed not to increase and that do not exceed the interest rates in column (b) of the table below.

[Insert table from paragraph 15.66(6) “v”(4)“9”]

9. The following table shall be used in the disclosures as indicated in numbered paragraphs 15.66(6) “v”(4)“7” and “8”:

<u>(a)</u>	<u>(b)</u>	<u>(c)</u>
	<b>U.S. Treasury Rate as of 12/31/2016</b>	<b>Long-Term U.S. Treasury Rate</b>
3 Months or Less	0.51%	3.00%
5 Years	1.93%	4.50%
10 Years	2.45%	5.00%
20 Years or More	3.06%	5.50%

**15.66(7)** An annuity illustration shall include a narrative summary that includes the following unless provided at the same time in a disclosure document:

*a.* A brief description of any contract features, riders or options, whether guaranteed or nonguaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the contract.

*b.* A brief description of any other optional benefits or features that are selected, but not shown in the illustration and the impact they have on the benefits and values of the contract.

*c.* Identification and a brief definition of column headings and key terms used in the illustration.

*d.* A statement containing in substance the following:

(1) For other than fixed indexed annuities:

This illustration assumes the annuity’s current nonguaranteed elements will not change. It is likely that they **will** change and actual values will be higher or lower than those in this illustration but will not be less than the minimum guarantees.

The values in this illustration are **not** guarantees or even estimates of the amounts you can expect from your annuity. Please review the entire Disclosure Document and Buyer’s Guide provided with your Annuity Contract for more detailed information.

(2) For fixed indexed annuities:

This illustration assumes the index will repeat historical performance and that the annuity’s current nonguaranteed elements, such as caps, spreads, participation rates or other interest crediting adjustments, will not change. It is likely that the index **will not** repeat historical performance, the nonguaranteed elements **will** change, and actual values will be higher or lower than those in this illustration but will not be less than the minimum guarantees.

The values in this illustration are **not** guarantees or even estimates of the amounts you can expect from your annuity. Please review the entire Disclosure Document and Buyer’s Guide provided with your Annuity Contract for more detailed information.

*e.* Additional explanations as follows:

(1) Minimum guarantees shall be clearly explained;

(2) The effect on contract values of contract surrender prior to maturity shall be explained;

(3) Any conditions on the payment of bonuses shall be explained;

(4) For annuities sold as an IRA or as a qualified plan or in another arrangement subject to the required minimum distribution (RMD) requirements of the Internal Revenue Code, the effect of RMDs on the contract values shall be explained;

(5) For annuities with recurring surrender charge schedules, a clear and concise explanation of what circumstances will cause the surrender charge to recur shall be included; and

(6) A brief description of the types of annuity income options available shall be explained, including:

1. The earliest or only maturity date for annuitization (as the term is defined in the contract);

2. For contracts with an optional maturity date, the periodic income amount for at least one of the annuity income options available based on the guaranteed rates in the contract, at the later of age 70 or 10 years after issue, but in no case later than the maximum annuitization age or date in the contract;

3. For contracts with a fixed maturity date, the periodic income amount for at least one of the annuity income options available, based on the guaranteed rates in the contract at the fixed maturity date; and

4. The periodic income amount based on the currently available periodic income rates for the annuity income option in numbered paragraph 15.66(7) “e”(6)“2” or “3,” if desired.

**15.66(8)** Following the narrative summary, an illustration shall include a numeric summary which shall include, at minimum, numeric values at the following durations:

a. Either:

(1) The first 10 contract years; or

(2) The surrender charge period if longer than 10 years, including any renewal surrender charge period;

b. Every tenth contract year up to the later of 30 years or age 70; and

c. Either:

(1) The required annuitization age; or

(2) The required annuitization date.

**15.66(9)** If the annuity contains a market value adjustment, hereafter MVA, all of the following provisions apply to the illustration (Appendix V provides an illustration of an annuity containing an MVA that addresses paragraphs 15.66(9) “a” through “f” below):

a. The MVA shall be referred to as such throughout the illustration.

b. The narrative shall include an explanation, in simple terms, of the potential effect of the MVA on the value available upon surrender.

c. The narrative shall include an explanation, in simple terms, of the potential effect of the MVA on the death benefit.

d. A statement, containing in substance the following, shall be included:

When you make a withdrawal, the amount you receive may be increased or decreased by a Market Value Adjustment (MVA). If interest rates on which the MVA is based go up after you buy your annuity, the MVA likely will decrease the amount you receive. If interest rates go down, the MVA will likely increase the amount you receive.

e. Illustrations shall describe both the upside and the downside aspects of the contract features relating to the market value adjustment.

f. The illustrative effect of the MVA shall be shown under at least one positive and one negative scenario. This demonstration shall appear on a separate page and be clearly labeled that it is information demonstrating the potential impact of an MVA.

g. Actual MVA floors and ceilings as listed in the contract shall be illustrated.

h. If the MVA has significant characteristics not addressed by paragraphs 15.66(9) “a” through “f,” the effect of such characteristics shall be shown in the illustration.

**15.66(10)** A narrative summary for a fixed indexed annuity illustration also shall include the following unless provided at the same time in a disclosure document:

a. An explanation, in simple terms, of the elements used to determine the index-based interest, including, but not limited to, the following elements:

- (1) The index(es) which will be used to determine the index-based interest;
- (2) The indexing method – such as point-to-point, daily averaging, monthly averaging;
- (3) The index term – the period over which indexed-based interest is calculated;
- (4) The participation rate, if applicable;
- (5) The cap, if applicable; and
- (6) The spread, if applicable;

b. The narrative shall include an explanation, in simple terms, of how index-based interest is credited in the indexed annuity;

c. The narrative shall include a brief description of the frequency with which the company can reset the elements used to determine the indexed-based credits, including the participation rate, the cap, and the spread, if applicable; and

d. If the product allows the contract holder to make allocations to declared-rate segment, then the narrative shall include a brief description of:

(1) Any options to make allocations to a declared-rate segment, both for new premiums and for transfers from the indexed-based segments; and

(2) Differences in guarantees applicable to the declared-rate segment and the indexed-based segments.

**15.66(11)** A numeric summary for a fixed indexed annuity illustration shall include, at a minimum, the following elements:

a. The assumed growth rate of the index in accordance with paragraph 15.66(6) “i”;

b. The assumed values for the participation rate, cap and spread, if applicable; and

c. The assumed allocation between indexed-based segments and declared-rate segment, if applicable, in accordance with paragraph 15.66(6) “i.”

**15.66(12)** If the contract is issued other than as applied for, a revised illustration conforming to the contract as issued shall be sent with the contract, except that nonsubstantive changes including, but not limited to, changes in the amount of expected initial or additional premiums and any changes in amounts of exchanges pursuant to Section 1035 of the Internal Revenue Code, rollovers or transfers, which do not alter the key benefits and features of the annuity as applied for will not require a revised illustration unless requested by the applicant.

[ARC 0035C, IAB 3/7/12, effective 4/11/12; ARC 4432C, IAB 5/8/19, effective 6/12/19]

**191—15.67(507B) Report to contract owners.** For annuities in the payout period that include nonguaranteed elements and for deferred annuities in the accumulation period, the insurer shall provide each contract owner with a report, at least annually, on the status of the contract that contains at least the following information:

**15.67(1)** The beginning and ending date of the current report period;

**15.67(2)** The accumulation and cash surrender value, if any, at the end of the previous report period and at the end of the current report period;

**15.67(3)** The total amounts, if any, that have been credited, charged to the contract value or paid during the current report period; and

**15.67(4)** The amount of outstanding loans, if any, as of the end of the current report period.

[ARC 0035C, IAB 3/7/12, effective 4/11/12]

**191—15.68(507B) Penalties.** In addition to any other penalties provided by the laws of this state, an insurer or producer that violates a requirement of these rules shall be guilty of a violation of Iowa Code chapter 507B.

[ARC 0035C, IAB 3/7/12, effective 4/11/12]

**191—15.69(507B) Severability.** If any provision of these rules or their application to any person or circumstance is for any reason held to be invalid by any court of law, the remainder of the rule and its application to other persons or circumstances shall not be affected.

[ARC 0035C, IAB 3/7/12, effective 4/11/12]

**191—15.70 and 15.71** Reserved.

DIVISION V  
SUITABILITY IN ANNUITY TRANSACTIONS

**191—15.72(507B) Purpose.** The purpose of these rules is to require producers, as defined in rule 191—15.74(507B), to act in the best interest of the consumer when making a recommendation of an annuity and to require insurers to establish and maintain a system to supervise recommendations so that the insurance needs and financial objectives of consumers at the times of the transactions are effectively addressed. Nothing herein shall be construed to create or imply a private cause of action for a violation of these rules or to subject a producer to civil liability under the best interest standard of care outlined in rule 191—15.75(507B) or under standards governing the conduct of a fiduciary or a fiduciary relationship.

[ARC 8934B, IAB 7/14/10, effective 1/1/11; ARC 0035C, IAB 3/7/12, effective 4/11/12; ARC 5045C, IAB 6/3/20, effective 7/8/20]

**191—15.73(507B) Applicability and scope.**

**15.73(1)** These rules shall apply to any sale or recommendation of an annuity on or after January 1, 2021.

**15.73(2)** Unless otherwise specifically included, these rules do not apply to transactions involving:

*a.* Direct-response solicitations where there is no recommendation based on information collected from the consumer pursuant to these rules;

*b.* Contracts used to fund the following:

(1) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

(2) A plan described by Section 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code (IRC) if established or maintained by an employer;

(3) A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under Section 457 of the IRC; or

(4) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

*c.* Settlements or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

*d.* Formal prepaid funeral contracts.

[ARC 8934B, IAB 7/14/10, effective 1/1/11; ARC 0035C, IAB 3/7/12, effective 4/11/12; ARC 5045C, IAB 6/3/20, effective 7/8/20]

**191—15.74(507B) Definitions.** For purposes of this division:

*“Annuity”* means an annuity that is an insurance product under state law, individually solicited, whether the product is classified as an individual or group annuity.

*“Cash compensation”* means any discount, concession, fee, service fee, commission, sales charge, loan, override, or cash benefit received by a producer in connection with the recommendation or sale of an annuity from an insurer, intermediary, or directly from the consumer.

*“Consumer profile information”* means information that is reasonably appropriate to determine whether a recommendation addresses the consumer’s financial situation, insurance needs and financial objectives, including, at a minimum, the following:

1. Age;
2. Annual income;
3. Financial situation and needs, including debts and other obligations;
4. Financial experience;
5. Insurance needs;
6. Financial objectives;
7. Intended use of the annuity;
8. Financial time horizon;



9. Existing assets or financial products, including investment, annuity and insurance holdings;
10. Liquidity needs;
11. Liquid net worth;
12. Risk tolerance, including, but not limited to, willingness to accept nonguaranteed elements in the annuity;
13. Financial resources used to fund the annuity; and
14. Tax status.

“*Continuing education credit*” or “*CE credit*” means one credit as defined in rule 191—11.2(505,522B).

“*Continuing education provider*” or “*CE provider*” means a CE provider as defined in rule 191—11.2(505,522B).

“*FINRA*” means the Financial Industry Regulatory Authority or a succeeding agency.

“*Insurer*” means a company required to be licensed under the laws of this state to provide insurance products, including annuities.

“*Intermediary*” means an entity contracted directly with an insurer or with another entity contracted with an insurer to facilitate the sale of the insurer’s annuities by producers.

“*Material conflict of interest*” means a financial interest of the producer in the sale of an annuity that a reasonable person would expect to influence the impartiality of a recommendation. “Material conflict of interest” does not include cash compensation or noncash compensation.

“*Noncash compensation*” means any form of compensation that is not cash compensation, including, but not limited to, health insurance, office rent, office support and retirement benefits.

“*Nonguaranteed elements*” means the premiums, credited interest rates (including any bonus), benefits, values, dividends, non-interest based credits, charges or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

“*Producer*” means a person or entity required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities. For purposes of these rules, “producer” includes an insurer where no producer is involved.

“*Recommendation*” means advice provided by a producer to an individual consumer that was intended to result or does result in a purchase, an exchange or a replacement of an annuity in accordance with that advice. Recommendation does not include general communication to the public, generalized customer services assistance or administrative support, general educational information and tools, prospectuses, or other product and sales material.

“*Replacement*” means a transaction in which a new annuity is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer whether or not a producer is involved, that, by reason of the transaction, an existing annuity or other insurance policy has been or is to be any of the following:

1. Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated;
2. Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;
3. Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;
4. Reissued with any reduction in cash value; or
5. Used in a financed purchase.

“*SEC*” means the United States Securities and Exchange Commission.

[ARC 8934B, IAB 7/14/10, effective 1/1/11; ARC 0035C, IAB 3/7/12, effective 4/11/12; ARC 5045C, IAB 6/3/20, effective 7/8/20]

## **191—15.75(507B) Duties of insurers and producers.**

**15.75(1) Best interest obligations.** A producer, when making a recommendation of an annuity, shall act in the best interest of the consumer under the circumstances known at the time the recommendation is made, without placing the producer’s or the insurer’s financial interest ahead of the consumer’s interest.

A producer has acted in the best interest of the consumer if the producer has satisfied the following obligations regarding care, disclosure, conflict of interest and documentation:

*a. Care obligation.*

(1) The producer, in making a recommendation shall exercise reasonable diligence, care and skill to:

1. Know the consumer's financial situation, insurance needs and financial objectives;
2. Understand the available recommendation options after making a reasonable inquiry into options available to the producer;
3. Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs and financial objectives over the life of the product, as evaluated in light of the consumer profile information; and

4. Communicate the basis or bases of the recommendation.

(2) The requirements under subparagraph 15.75(1) "a"(1) include making reasonable efforts to obtain consumer profile information from the consumer prior to the recommendation of an annuity.

(3) The requirements under subparagraph 15.75(1) "a"(1) require a producer to consider the types of products the producer is authorized and licensed to recommend or sell that address the consumer's financial situation, insurance needs and financial objectives. This does not require analysis or consideration of any products outside the authority and license of the producer or other possible alternative products or strategies available in the market at the time of the recommendation. Producers shall be held to standards applicable to producers with similar authority and licensure.

(4) The requirements under this subrule do not create a fiduciary obligation or relationship and only create a regulatory obligation as established in these rules.

(5) The consumer profile information, characteristics of the insurer, and product costs, rates, benefits and features are those factors generally relevant in making a determination whether an annuity effectively addresses the consumer's financial situation, insurance needs and financial objectives, but the level of importance of each factor under the care obligation of this paragraph may vary depending on the facts and circumstances of a particular case. However, each factor may not be considered in isolation.

(6) The requirements under subparagraph 15.75(1) "a"(1) include having a reasonable basis to believe the consumer would benefit from certain features of the annuity, such as annuitization, death or living benefit or other insurance-related features.

(7) The requirements under subparagraph 15.75(1) "a"(1) apply to the particular annuity as a whole and the underlying subaccounts to which funds are allocated at the time of purchase or exchange of an annuity, and riders and similar product enhancements, if any.

(8) The requirements under subparagraph 15.75(1) "a"(1) do not mean the annuity with the lowest one-time or multiple occurrence compensation structure shall necessarily be recommended.

(9) The requirements under subparagraph 15.75(1) "a"(1) do not mean the producer has ongoing monitoring obligations under the care obligation under this paragraph, although such an obligation may be separately owed under the terms of a fiduciary, consulting, investment advising or financial planning agreement between the consumer and the producer.

(10) In the case of an exchange or replacement of an annuity, the producer shall consider the whole transaction, which includes taking into consideration whether:

1. The consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits, such as death, living or other contractual benefits, or be subject to increased fees, investment advisory fees or charges for riders and similar product enhancements;
2. The replacing product would substantially benefit the consumer in comparison to the replaced product over the life of the product; and
3. The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 60 months.

(11) Nothing in this regulation should be construed to require a producer to obtain any license other than a producer license with the appropriate line of authority to sell, solicit or negotiate insurance in this state, including but not limited to any securities license, in order to fulfill the duties and obligations

contained in this regulation; provided the producer does not give advice or provide services that are otherwise subject to securities laws or engage in any other activity requiring other professional licenses.

*b. Disclosure obligation.*

(1) Prior to the recommendation or sale of an annuity, the producer shall prominently disclose to the consumer on a form substantially similar to Appendix VI:

1. A description of the scope and terms of the relationship with the consumer and the role of the producer in the transaction;

2. An affirmative statement on whether the producer is licensed and authorized to sell the following products:

- Fixed annuities;
- Fixed indexed annuities;
- Variable annuities;
- Life insurance;
- Mutual funds;
- Stocks and bonds; and
- Certificates of deposit;

3. An affirmative statement describing the insurers the producer is authorized, contracted (or appointed), or otherwise able to sell insurance products for, using the following descriptions:

- One insurer;
- From two or more insurers; or
- From two or more insurers although primarily contracted with one insurer.

4. A description of the sources and types of cash compensation and noncash compensation to be received by the producer, including whether the producer is to be compensated for the sale of a recommended annuity by commission as part of premium or other remuneration received from the insurer, intermediary or other producer or by fee as a result of a contract for advice or consulting services; and

5. A notice of the consumer's right to request additional information regarding cash compensation described in subparagraph 15.75(1) "b"(2);

(2) Upon request of the consumer or the consumer's designated representative, the producer shall disclose:

1. A reasonable estimate of the amount of cash compensation to be received by the producer, which may be stated as a range of amounts or percentages; and

2. Whether the cash compensation is a one-time or multiple occurrence amount, and if a multiple occurrence amount, the frequency and amount of the occurrence, which may be stated as a range of amounts or percentages; and

(3) Prior to or at the time of the recommendation or sale of an annuity, the producer shall have a reasonable basis to believe the consumer has been informed of various features of the annuity, such as: the potential surrender period and surrender charge; potential tax penalty if the consumer sells, exchanges, surrenders or annuitizes the annuity; mortality and expense fees; investment advisory fees; any annual fees; potential charges for and features of riders or other options of the annuity; limitations on interest returns; potential changes in nonguaranteed elements of the annuity; insurance and investment components; and market risk.

*c. Conflict of interest obligation.* A producer shall identify and avoid or reasonably manage and disclose material conflicts of interest, including material conflicts of interest related to an ownership interest.

*d. Documentation obligation.* A producer shall at the time of recommendation or sale:

(1) Make a written record of any recommendation and the basis for the recommendation subject to this regulation;

(2) Obtain a consumer-signed statement on a form substantially similar to Appendix VII documenting:

1. A customer's refusal to provide the consumer profile information, if any; and

2. A customer's understanding of the ramifications of not providing his or her consumer profile information or providing insufficient consumer profile information; and

(3) Obtain a consumer-signed statement on a form substantially similar to Appendix VIII acknowledging the annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the producer's recommendation.

*e. Application of the best interest obligation.* Any requirement applicable to a producer under this subrule shall apply to every producer who has exercised material control or influence in the making of a recommendation and has received direct compensation as a result of the recommendation or sale, regardless of whether the producer has had any direct contact with the consumer. Activities such as providing or delivering marketing or educational materials, product wholesaling or other back office product support, and general supervision of a producer do not, in and of themselves, constitute material control or influence.

**15.75(2) Transactions not based on a recommendation.**

*a.* Except as provided under paragraph 15.75(2) "b," a producer shall have no obligation to a consumer under paragraph 15.75(1) "a" related to any annuity transaction if:

- (1) No recommendation is made;
- (2) A recommendation was made and was later found to have been prepared based on inaccurate material information provided by the consumer;
- (3) A consumer refuses to provide relevant consumer profile information and the annuity transaction is not recommended; or
- (4) A consumer decides to enter into an annuity transaction that is not based on a recommendation of the producer.

*b.* An insurer's issuance of an annuity subject to paragraph 15.75(2) "a" shall be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.

**15.75(3) Supervision system.**

*a.* Except as permitted under subrule 15.75(2), an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity would effectively address the particular consumer's financial situation, insurance needs and financial objectives based on the consumer's consumer profile information.

*b.* An insurer shall establish and maintain a supervision system that is reasonably designed to achieve the insurer's and its producers' compliance with rules 191—15.72(507B) through 191—15.78(507B) including, but not limited to, the following:

(1) The insurer shall establish and maintain reasonable procedures to inform its producers of the requirements of these rules and shall incorporate the requirements of these rules into relevant producer training manuals;

(2) The insurer shall establish and maintain standards for producer product training and shall establish and maintain reasonable procedures to require its producers to comply with the requirements of rule 191—15.76(507B);

(3) The insurer shall provide product-specific training and training materials which explain all material features of its annuity products to its producers;

(4) The insurer shall establish and maintain procedures for the review of each recommendation prior to issuance of an annuity that are designed to ensure there is a reasonable basis to determine that the recommended annuity would effectively address the particular consumer's financial situation, insurance needs and financial objectives. Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means including, but not limited to, physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

(5) The insurer shall establish and maintain reasonable procedures to detect recommendations that are not in compliance with subrules 15.75(1), 15.75(2), 15.75(4) and 15.75(5). These procedures may include, but are not limited to, confirmation of the consumer's consumer profile information, systematic customer surveys, producer and consumer interviews, confirmation letters, producer statements or

attestations, and programs of internal monitoring. Nothing in this subparagraph prevents an insurer from complying with this subparagraph by applying sampling procedures or by confirming the consumer profile information or other required information under this rule after issuance or delivery of the annuity;

(6) The insurer shall establish and maintain reasonable procedures to assess, prior to or upon issuance or delivery of an annuity, whether a producer has provided to the consumer the information required to be provided under this rule;

(7) The insurer shall establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information;

(8) The insurer shall establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and noncash compensation that are based on the sales of specific annuities within a limited period of time. The requirements of this subparagraph are not intended to prohibit the receipt of health insurance, office rent, office support, retirement benefits or other employee benefits by employees as long as those benefits are not based upon the volume of sales of a specific annuity within a limited period of time; and

(9) The insurer shall annually provide a written report to senior management, including to the senior manager responsible for audit functions, which details a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

c. Third-party supervisor.

(1) Nothing in this subrule restricts an insurer from contracting for performance of a function (including maintenance of procedures) required under this subrule. An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to rule 191—15.77(507B) regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with subparagraph 15.75(3) "c"(2).

(2) An insurer's supervision system under this subrule shall include supervision of contractual performance under this subrule including, but not limited to, the following:

1. Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and

2. Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.

d. An insurer is not required to include in its system of supervision:

(1) A producer's recommendations to consumers of products other than the annuities offered by the insurer; or

(2) Consideration of or comparison to options available to the producer or compensation relating to those options other than annuities or other products offered by the insurer.

**15.75(4) *Prohibited practices.*** Neither a producer nor an insurer shall dissuade, or attempt to dissuade, a consumer from:

a. Truthfully responding to an insurer's request for confirmation of the consumer profile information;

b. Filing a complaint; or

c. Cooperating with the investigation of a complaint.

**15.75(5) *Safe harbor.***

a. Recommendations and sales of annuities made in compliance with comparable standards shall satisfy the requirements under these rules. This subrule applies to all recommendations and sales of annuities made by financial professionals in compliance with business rules, controls and procedures that satisfy a comparable standard even if such standard would not otherwise apply to the product or recommendation at issue. However, nothing in this subrule shall limit the insurance commissioner's ability to investigate and enforce the provisions of these rules.

b. Nothing in paragraph 15.75(5) "a" shall limit the insurer's obligation to comply with paragraph 15.75(3) "a," although the insurer may base its analysis on information received from either the financial professional or the entity supervising the financial professional.

c. For paragraph 15.75(5) “a” to apply, an insurer shall:

(1) Monitor the relevant conduct of the financial professional seeking to rely on paragraph 15.75(5) “a” or the entity responsible for supervising the financial professional, such as the financial professional’s broker-dealer or an investment adviser registered under federal securities laws using information collected in the normal course of an insurer’s business; and

(2) Provide to the entity responsible for supervising the financial professional seeking to rely on paragraph 15.75(5) “a,” such as the financial professional’s broker-dealer or investment adviser registered under federal securities laws, information and reports that are reasonably appropriate to assist such entity to maintain its supervision system.

d. For purposes of this subrule, “financial professional” means a producer that is regulated and acting as:

(1) A broker-dealer registered under federal securities laws or a registered representative of a broker-dealer;

(2) An investment adviser registered under federal securities laws or an investment adviser representative associated with the federal registered investment adviser; or

(3) A plan fiduciary under Section 3(21) of the Employee Retirement Income Security Act of 1974 (ERISA) or fiduciary under Section 4975(e)(3) of the Internal Revenue Code (IRC) or any amendments or successor statutes thereto.

e. For purposes of this subrule, “comparable standards” means:

(1) With respect to broker-dealers and registered representatives of broker-dealers, applicable SEC and FINRA rules pertaining to best interest obligations and supervision of annuity recommendations and sales, including, but not limited to, Regulation Best Interest and any amendments or successor regulations thereto;

(2) With respect to investment advisers registered under federal securities laws or investment adviser representatives, the fiduciary duties and all other requirements imposed on such investment advisers or investment adviser representatives by contract or under the Investment Advisers Act of 1940, including, but not limited to, the Form ADV and interpretations; and

(3) With respect to plan fiduciaries or fiduciaries, means the duties, obligations, prohibitions and all other requirements attendant to such status under ERISA or the IRC and any amendments or successor statutes thereto.

[ARC 8934B, IAB 7/14/10, effective 1/1/11; ARC 0035C, IAB 3/7/12, effective 4/11/12; ARC 5045C, IAB 6/3/20, effective 7/8/20]

### **191—15.76(507B) Producer training.**

**15.76(1)** A producer shall not solicit the sale of an annuity product unless the producer has adequate knowledge of the product to recommend the annuity and the producer is in compliance with the insurer’s standards for product training. A producer may rely on insurer-provided product-specific training standards and materials to comply with this subrule.

**15.76(2)** Training required.

a. One-time course.

(1) A producer who engages in the sale of annuity products shall complete a one-time four-credit training course approved by the commissioner and provided by an education provider approved by the commissioner.

(2) Producers may not engage in the sale of annuities until the annuity training course required under this rule has been completed.

b. The minimum length of the training required under this rule shall be sufficient to qualify for at least four CE credits, but may be longer.

c. The training required under this rule shall include information on the following topics:

(1) The types of annuities and various classifications of annuities;

(2) Identification of the parties to an annuity;

(3) How fixed, variable, indexed, and other product-specific annuity contract provisions affect consumers;

(4) The application of income taxation of qualified and nonqualified annuities;

- (5) The primary uses of annuities;
- (6) Appropriate standard of conduct sales practices; and
- (7) Replacement and disclosure requirements.

*d.* Providers of courses intended to comply with this rule shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

*e.* A provider of an annuity training course intended to comply with this rule shall register as a CE provider in this state and comply with the rules and guidelines applicable to producer continuing education courses as set forth in 191—Chapter 11.

*f.* A producer who has completed an annuity training course approved by the commissioner prior to January 1, 2021, shall, before July 1, 2021, complete either:

- (1) A new four-credit training course approved by the commissioner after January 1, 2021; or
- (2) An additional one-time one-credit training course approved by the commissioner and provided by the commissioner-approved education provider on appropriate sales practices, replacement and disclosure requirements under this amended regulation.

*g.* Annuity training courses may be conducted and completed by classroom or self-study methods in accordance with 191—Chapter 11.

*h.* Providers of annuity training shall comply with the reporting requirements and shall issue certificates of completion in accordance with 191—Chapter 11.

*i.* Satisfaction of the training requirements of another state that are substantially similar to the provisions of this subrule shall be deemed to satisfy the training requirements of this subrule in this state.

*j.* The satisfaction of the components of the training requirements of any course or courses with components substantially similar to the provisions of this subrule shall be deemed to satisfy the training requirements of this subrule in this state.

*k.* An insurer shall verify that a producer has completed the annuity training course required under this subrule before allowing the producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this subrule by obtaining certificates of completion of the training course or obtaining reports provided by Iowa insurance commissioner-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved continuing education providers.

[ARC 8934B, IAB 7/14/10, effective 1/1/11; ARC 0035C, IAB 3/7/12, effective 4/11/12; ARC 5045C, IAB 6/3/20, effective 7/8/20]

#### **191—15.77(507B) Compliance; mitigation; penalties; enforcement.**

**15.77(1)** An insurer is responsible for compliance with this regulation. If a violation occurs, either because of the action or inaction of the insurer or its producer, the commissioner may order:

*a.* An insurer to take reasonably appropriate corrective action for any consumer harmed by a failure to comply with these rules by the insurer, an entity contracted to perform the insurer's supervisory duties, or by the producer;

*b.* A general agency, independent agency or the producer to take reasonably appropriate corrective action for any consumer harmed by the producer's violation of the rules of this division; and

*c.* Appropriate penalties and sanctions.

**15.77(2)** Any applicable penalty under Iowa Code chapter 507B for a violation of the rules in Division V of this chapter may be reduced or eliminated if corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice.

**15.77(3)** The authority to enforce compliance with these rules is vested exclusively with the commissioner.

[ARC 8934B, IAB 7/14/10, effective 1/1/11; ARC 0035C, IAB 3/7/12, effective 4/11/12; ARC 5045C, IAB 6/3/20, effective 7/8/20]

#### **191—15.78(507B) Record keeping.**

**15.78(1)** Insurers, general agents, independent agencies, and producers shall maintain or be able to make available to the commissioner records of the information collected from the consumer, disclosures

made to the consumer (including summaries of oral disclosures) and other information used in making the recommendations that were the basis for insurance transactions for ten years after the insurance transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of a producer.

**15.78(2)** Records required to be maintained by this rule may be maintained in paper, photographic, microprocess, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document.

[ARC 8934B, IAB 7/14/10, effective 1/1/11; ARC 0035C, IAB 3/7/12, effective 4/11/12; ARC 5045C, IAB 6/3/20, effective 7/8/20]

**191—15.79** Reserved.

DIVISION VI  
INDEXED PRODUCTS TRAINING REQUIREMENT

**191—15.80(507B,522B) Purpose.** The purpose of the rules in this division is to require certain specific minimum training for insurance producers who wish to sell indexed annuities or indexed life insurance in Iowa. This additional training is necessary due to the complex nature of these indexed products and to ensure that insurance producers are able to determine whether an indexed product is suitable for a consumer and are able to adequately explain to a consumer how the indexed product works. The ultimate goal of these rules is to ensure that purchasers of indexed products understand basic features of the indexed products. The rules in this division apply to all indexed products sold on or after January 1, 2008.

**191—15.81(507B,522B) Definitions.** For the purpose of this division:

“*CE credit*” means one continuing education “credit” as defined in 191—Chapter 11.

“*CE provider*” means any individual or entity that is approved to offer continuing education courses in Iowa pursuant to 191—Chapter 11.

“*Indexed products*” means all fixed indexed life insurance and fixed indexed annuity products.

“*Insurer*” means an insurance company admitted to do business in Iowa which sells indexed products in Iowa.

“*Producer*” means a person required to obtain an insurance license under Iowa Code chapter 522B.

**191—15.82(507B,522B) Special training required.** A producer who wishes to sell indexed products in Iowa shall complete at least one four-credit indexed products training course, as described in this division, prior to providing any advice or making any sales presentation concerning an indexed product.

**191—15.83(507B,522B) Conduct of training course.**

**15.83(1)** The indexed products training shall include information on all topics listed in the most recent version of the indexed products training outline available at the division’s Web site, [www.iid.iowa.gov](http://www.iid.iowa.gov).

**15.83(2)** CE providers of indexed products training shall cover all topics listed in the indexed products training outline and, within the time allotted for the required topics, shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer’s products. Additional topics may be offered in conjunction with and in addition to the required outline.

**15.83(3)** The minimum length of the indexed products training must be sufficient to qualify for at least four CE credits, but may be longer.

**15.83(4)** To satisfy the requirements of subrules 15.83(1), 15.83(2) and 15.83(3), an indexed products training course shall be filed, approved and conducted according to the rules and guidelines applicable to insurance producer continuing education courses as set forth in 191—Chapter 11.

**15.83(5)** Indexed products training courses may be conducted and completed by classroom or self-study methods according to the rules in 191—Chapter 11.



**15.83(6)** CE providers of indexed products training shall comply with the reporting requirements as set forth in 191—Chapter 11.

**15.83(7)** CE providers of indexed products training shall issue certificates of completion according to the rules in 191—Chapter 11.

**15.83(8)** A producer may use the CE credits completed under the indexed products training requirement to meet the producer's continuing education requirement under 191—Chapter 11.  
[ARC 2296C, IAB 12/9/15, effective 1/13/16]

**191—15.84(507B,522B) Insurer duties.**

**15.84(1)** Each insurer shall establish a system to verify which of its appointed insurance producers have completed one training course on indexed products as required in this division.

**15.84(2)** An insurer shall verify that a producer has completed the required indexed products training before allowing the producer to sell an indexed product for that insurer.

**15.84(3)** For insurance producers under contract with or employed by a broker-dealer, general agent or independent agency, an insurer may enter into a contract with the broker-dealer, general agent or independent agency to establish and maintain a system of verification as required by subrule 15.84(1) with respect to those insurance producers. In such circumstances, the insurer shall make reasonable inquiry to ensure that the broker-dealer, general agent or independent agency is performing the functions required under subrules 15.84(1) and 15.84(2).

**191—15.85(507B,522B) Verification of training.** Insurers, producers and third-party contractors may verify a producer's completion of the indexed products training by accessing the division's Web site at [www.iid.iowa.gov](http://www.iid.iowa.gov).

[ARC 2296C, IAB 12/9/15, effective 1/13/16]

**191—15.86(507B,522B) Penalties.**

**15.86(1)** Insurers and third-party contractors that violate the rules of this division are subject to penalty under Iowa Code chapter 507B.

**15.86(2)** Producers who violate the rules of this division are subject to penalty under Iowa Code chapters 507B and 522B.

**15.86(3)** Continuing education providers that fail to follow the requirements of the rules of this division and the conduct requirements of 191—Chapter 11 are subject to penalty under 191—Chapter 11 and Iowa Code chapters 507B and 522B.

**191—15.87(507B,522B) Compliance date.**

**15.87(1)** A producer who provides advice or makes a sales presentation regarding an indexed product on or after January 1, 2008, shall have completed the indexed products training required by this division.

**15.87(2)** An Iowa-licensed insurer shall verify that, prior to the sale of any indexed products on or after January 1, 2008, any producer appointed by the insurer has completed the indexed products training required by this division.

APPENDIX I  
LIFE INSURANCE COST AND  
BENEFIT DISCLOSURE

Definitions.

“Annual premium” for a basic policy or rider, for which the company reserves the right to change the premium, shall be the maximum annual premium.

“Cash dividend” means dividends which can be applied toward payment of gross premiums which comply with the illustrated scale.

“Equivalent level annual dividend” is calculated by applying the following steps:

1. Accumulate the annual cash dividends at 5 percent interest compounded annually to the end of the tenth and twentieth policy years.

2. Divide each accumulation of paragraph “1” by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the values in paragraph “1” over the respective periods stipulated in paragraph “1.” If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

3. Divide the results of paragraph “2” by the number of thousands of the equivalent level death benefit to arrive at the equivalent level annual dividend.

“Equivalent level death benefit” of a policy or term life insurance rider is an amount calculated as follows:

1. Accumulate the guaranteed amount payable upon death, regardless of the cause of death other than suicide, or other specifically enumerated exclusions, at the beginning of each policy year for 10 and 20 years at 5 percent interest compounded annually to the end of the tenth and twentieth policy years respectively.

2. Divide each accumulation of paragraph “1” by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in paragraph “1” over the respective periods stipulated in paragraph “1.” If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

“Generic name” means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.

“Life insurance net payment cost index.” The life insurance net payment cost index is calculated in the same manner as the comparable life insurance cost index except that the cash surrender value and any terminal dividend are set at zero.

“Life insurance surrender cost index.” The life insurance surrender cost index is calculated by applying the following steps:

1. Determine the guaranteed cash surrender value, if any, available at the end of the tenth and twentieth policy years.

2. For participating policies, add the terminal dividend payable upon surrender, if any, to the accumulation of the annual cash dividends at 5 percent interest compounded annually to the end of the period selected and add this sum to the amount determined in subparagraph “1.”

3. Divide the result of subparagraph “2” (subparagraph “1” for guaranteed-cost policies) by an interest factor that converts it into an equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in subparagraph “2” (subparagraph “1” for guaranteed-cost policies) over the respective periods stipulated in subparagraph “1.” If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

4. Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider at 5 percent interest compounded annually to the end of the period stipulated in subparagraph “1” and dividing the result by the respective factors stated in subparagraph “3” (this amount is the annual premium payable for a level premium plan).

5. Subtract the result of subparagraph “3” from subparagraph “4.”

6. Divide the result of subparagraph “5” by the number of thousands of the equivalent level death benefit to arrive at the life insurance surrender cost index.

“Policy summary,” for the purposes of these rules, shall mean a written statement describing the elements of the policy including but not limited to:

1. A prominently placed title as follows: STATEMENT OF POLICY COST AND BENEFIT INFORMATION.

2. The name and address of the insurance producer or, if no producer is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the policy summary.

3. The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written.

4. The generic name of the basic policy and each rider.

5. The following amounts, where applicable, for the first five policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns including, but not necessarily limited to, the years for which life insurance cost indexes are displayed and at least one age from 60 through 65 or maturity, whichever is earlier:

(a) The annual premium for the basic policy.

(b) The annual premium for each optional rider.

(c) Guaranteed amount payable upon death, at the beginning of the policy year regardless of the cause of death other than suicide and other specifically enumerated exclusions, which is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately.

(d) Total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider.

(e) Cash dividends payable at the end of the year with values shown separately for the basic policy and each rider. (Dividends need not be displayed beyond the twentieth policy year.)

(f) Guaranteed endowment amounts payable under the policy which are not included under guaranteed cash surrender values above.

6. The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest rate is variable, the policy summary includes the maximum annual percentage rate.

7. Life insurance cost indexes for 10 and 20 years but in no case beyond the premium paying period. Separate indexes are displayed for the basic policy and for each optional term life insurance rider. Such indexes need not be included for optional riders which are limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than 12 months and guaranteed insurability benefits nor for basic policies or optional riders covering more than one life.

8. The equivalent level annual dividend, in the case of participating policies and participating optional term life insurance riders, under the same circumstances and for the same durations at which life insurance cost indexes are displayed.

9. A policy summary which includes dividends shall also include a statement that dividends are based on the company’s illustrated scale and are not guaranteed and a statement in close proximity to the equivalent level annual dividend as follows: An explanation of the intended use of the equivalent level annual dividend is included in the life insurance buyer’s guide.

10. A statement in close proximity to the life insurance cost indexes as follows: An explanation of the intended use of these indexes is provided in the life insurance buyer’s guide.

11. The date on which the policy summary is prepared.

The policy summary must consist of a separate document. All information required to be disclosed must be set out in such a manner as not to minimize or render any portion thereof obscure. Any amounts which remain level for two or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in paragraph “5” of this definition shall be listed in total, not a per-thousand nor a per-unit basis. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insured if death benefits do not differ within the class. Zero amounts shall be displayed as zero and shall not be displayed as a blank space.

APPENDIX II  
HIV ANTIBODY TEST  
INFORMATION FORM FOR INSURANCE APPLICANT

AIDS

Acquired Immunodeficiency Syndrome (AIDS) is a life-threatening disorder of the immune system, caused by a virus, HIV. The virus is transmitted by sexual contact with an infected person, from an infected mother to her newborn infant, or by exposure to infected blood (as in needle sharing during IV drug use). Persons at high risk of contracting AIDS include males who have had sexual contact with another man, intravenous drug users, hemophiliacs, and persons who have had sexual contact with any of these persons. AIDS does not typically develop until a person has been infected with HIV for several years. A person may remain free of symptoms for years after becoming infected. Infected persons have a 25 percent to 50 percent chance of developing AIDS over the next ten years.

The HIV antibody test:

Before consenting to testing, please read the following important information:

1. Purpose. This test is being run to determine whether you may have been infected with HIV. If you are infected, you are probably not insurable. This test is not a test for AIDS; AIDS can only be diagnosed by medical evaluation.

2. Positive test results. If you test positive, you should seek medical follow-up with your personal physician. If your test is positive, you may be infected with HIV.

3. Accuracy. An HIV test will be considered positive only after confirmation by a laboratory procedure that the state health officer has determined to be highly accurate. Nonetheless, the HIV antibody test is not 100 percent accurate. Possible errors include:

a. False positives: This test gives a positive result, even though you are not infected. This happens rarely and is more common in persons who have not engaged in high-risk behavior. Retesting should be done to help confirm the validity of a positive test.

b. False negatives: The test gives a negative result, even though you are infected with HIV. This happens most commonly in recently infected persons; it takes at least 4 to 12 weeks for a positive test result to develop after a person is infected.

4. Side effects. A positive test result may cause you significant anxiety. A positive test may result in uninsurability for life, health, or disability insurance policies for which you may apply in the future. Although prohibited by law, discrimination in housing, employment, or public accommodations may result if your test results become known to others. A negative result may create a false sense of security.

5. Disclosure of results. A positive test result will be reported to you in one of the following ways. You may choose to have information about a positive test result communicated to you through your physician or through the alternative testing site. If you do not designate a physician or an alternative testing site to receive the information, the information about a positive test result will be reported to the Iowa Department of Public Health, and the Iowa Department of Public Health will contact you.

6. Confidentiality. Like all medical information, HIV test results are confidential. An insurer, insurance agent, or insurance-support organization is required to maintain the confidentiality of HIV test results. However, certain disclosures of your test results may occur, including those authorized by consent forms that you may have signed as part of your overall application. Your test results may be provided to the Medical Information Bureau, a national insurance data bank. Your insurance agent will provide you with additional written information about this subject at your request.

7. Prevention. Persons who have a history of high-risk behavior should change these behaviors to prevent getting or giving AIDS, regardless of whether they are tested. Specific important changes in behavior include safe sex practices (including condom use for sexual contact with someone other than a long-term monogamous partner) and not sharing needles.

8. Information. Further information about HIV testing and AIDS can be obtained by contacting the CDC national health information hotline, 1-800-CDC-INFO (1-800-232-4636); TTY 1-888-232-6348; [www.cdc.gov/info](http://www.cdc.gov/info).

## INFORMED CONSENT

I hereby authorize the company and its designated medical facilities to draw samples of my blood or other bodily fluid for the purpose of laboratory testing to provide applicable medical information concerning my insurability. These tests may include but are not limited to tests for: cholesterol and related blood lipids; diabetes; liver or kidney disorders; infection by the Acquired Immune Deficiency Syndrome (HIV) virus (if permitted by law); immune disorders; or the presence of medications, drugs, nicotine or other metabolites. The tests will be done by a medically accepted procedure which is extremely reliable.

If an HIV Antibody Screen is performed, it will be performed only by a certified laboratory and according to the following medical protocol:

1. An initial ELISA blood or other bodily fluid test will be done.
  - a. If the initial ELISA blood or other bodily fluid test is positive, it will be repeated.
  - b. If the initial ELISA blood or other bodily fluid test is negative, a negative finding will be reported to the company.
2. If the initial ELISA blood or other bodily fluid test is positive, it will be repeated.
  - a. If the second ELISA blood or other bodily fluid test is also positive, a Western Blot blood or other bodily fluid test will be performed to confirm the positive results of the two ELISA blood or other bodily fluid tests.
  - b. If the second ELISA blood or other bodily fluid test is negative, a third ELISA blood or other bodily fluid test will be performed. If the third ELISA blood or other bodily fluid test is positive, a Western Blot blood or other bodily fluid test will be performed to confirm the previous positive results. If the third blood or other bodily fluid test is negative, a negative result will be reported to the company.
3. Only if at least two ELISA blood or other bodily fluid tests and a Western Blot blood or other bodily fluid test are all positive will the result be reported as a positive. All other results will be reported as negative to the company.

Without a court order or written authorization from me, these results will be made known only to the company and its reinsurers (if involved in the underwriting process). The company will provide results of all tests to a physician of my choice. Positive test results to the HIV Antibody Screen will be disclosed only to my physician or an alternative testing site as I direct below. If I do not designate a physician or alternative testing site to receive the results, the company will provide results of a positive HIV test to the Iowa Department of Public Health. In addition, the company may make a brief report to MIB, Inc., in a manner described in the Pre-notice which I received as a part of the application process. The only information the company will report to MIB, Inc. is that positive results were obtained from a blood or other bodily fluid test. The company will not report what tests were performed or that the positive result was for HIV antibodies.

These organizations will be the only ones maintaining this information in any type of file except as required by law. Positive HIV Antibody Screen results are to be reported to: (elect one) ☐ the Alternative Testing Site or ☐ my physician; \_\_\_\_\_

(name and address of attending physician)

This authorization will be valid for 90 days from the date below.

Dated At: \_\_\_\_\_ Day \_\_\_\_\_ Month \_\_\_\_\_, 20 \_\_\_\_\_

Witness \_\_\_\_\_ Proposed Insured: \_\_\_\_\_  
 Producer (Signature) (Signature)

This rule is intended to implement Iowa Code section 505.16.  
 [ARC 2602C, IAB 6/22/16, effective 7/27/16]

### APPENDIX III COMPLAINT RECORD

Column A	Column B		Column C	Column D	Column E	Column F	Column G	Column H
Company Identification Number	Function Code	Reason Code	Line Type	Company Disposition after Complaint Received	Date Received	Date Closed	Insurance Division Complaint	State of Origin

(Producer's  
Number)

#### Explanation

- A. Company Identification Number. As noted, this refers to the identification number of the complaint and shall also include the license number, name, or other means of identifying any licensee of the Insurance Division, such as a producer that may have been involved in the complaint.
- B. Function Code. Complaints are to be classified by function(s) of the company involved. Separate classifications are to be maintained for underwriting, marketing and sales, claims, policyholder service and miscellaneous.  
Reason Code. Complaints are also to be classified by the nature of the complaint. The following is the classification required for each function specified above.
  - 1) Underwriting
    - a) Premium and rating
    - b) Refusal to insure
    - c) Cancellation/renewal
    - d) Delays
    - e) Unfair discrimination
    - f) Endorsement/rider
    - g) Group conversion
    - h) Medicare supplement violation
    - i) Miscellaneous (not covered by above)
  - 2) Marketing and Sales
    - a) General advertising
    - b) Misrepresentation
    - c) Producer handling
    - d) Replacement
    - e) Delays
    - f) Miscellaneous (not covered by above)
  - 3) Claims
    - a) Post claim underwriting
    - b) Delays
    - c) Unsatisfactory settlement/offer
    - d) Coordination of benefits
    - e) Cost containment
    - f) Denial of claim
    - g) Miscellaneous (not covered by above)
  - 4) Policyholder service
    - a) Premium notice/billing
    - b) Cash value
    - c) Delays/no response
    - d) Premium refund
    - e) Coverage question
    - f) Miscellaneous (not covered by above)
  - 5) Miscellaneous

- C. Line Type. Complaints are to be classified according to the line of insurance involved as follows:
  - 1) Automobile
  - 2) Fire
  - 3) Homeowners-Farmowners
  - 4) Crop
  - 5) Life and Annuity
  - 6) Accident and Health
  - 7) Miscellaneous (not covered by above)
- D. Company Disposition After Receipt. The complaint record shall note the disposition of the complaint.

The following examples illustrate the type of information called for, but are not intended to be required language nor to exhaust the possibilities:

  - 1. Policy issued/restored.
  - 2. Refund.
  - 3. Claim settled.
  - 4. Delay resolved.
  - 5. Question of fact.
  - 6. Contract provision/legal issue.
  - 7. No jurisdiction.
- E. Date Received. This refers to the date the complaint was received.
- F. Date Closed. This refers to the date on which the complaint was disposed of whether by one action or a series of actions as may be present in connection with some complaints.
- G. Insurance Department Complaint. Complaints are to be classified so as to indicate if the complaint was from an insurance department.
- H. State of Origin. The complaint record should note the state from which the complaint originated. Ordinarily this will be the state of residence of the complainant.

APPENDIX IV  
DISCLOSURE FORM FOR SMALL FACE AMOUNT LIFE INSURANCE POLICIES

**Important Information About Your Policy**

The premiums you'll pay for your policy may be more than the amount of your coverage (the face amount). You can find both the face amount and the annual premium in your policy. Look for the page labeled [use the label the company uses for that information, such as "Statement of Policy Cost and Benefit Information"].

- Usually, you can figure out how many years it will take until the premiums paid will be greater than the face amount. For an estimate, divide the face amount by the annual premium. Several factors may affect how many years this might take for *your* policy. These include not paying premiums when due, taking out a policy loan, surrendering your policy for cash, policy riders, payment of dividends, if applicable, and changes in the face amount.
- Many factors will affect how much your life insurance costs. Some are your age and health, the face amount of the policy, and the cost of a policy rider. You may be able to pay less for your insurance if you answer health questions. You may also pay less if you pay your premiums less often.
- Ask your insurance agent or your insurance company if you have any questions about your premiums, your coverage, or anything else about your policy.

**If You Change Your Mind . . .**

- You can get a full refund of premiums you've paid if you return your policy and cancel your coverage. You *must* do this within the number of days stated on your policy's front page. To return the policy for a full refund, send it back to the agent or the company.
- If you stop paying premiums or cancel your policy *after* the time that a full refund is available, you have specific rights. Ask your insurance agent or your insurance company about your rights.

**Contact Information**

If you have questions about your insurance policy, ask your agent or your company. If your agent isn't available, contact your insurance company at [provide telephone number (including toll-free number if available), address and Web site (if available)].



## APPENDIX V

**Annuity Illustration Example**

[The following illustration is an example only and does not reflect specific characteristics of any actual product for sale by any company]

**ABC Life Insurance Company***Company Product Name*

Flexible Premium Fixed Deferred Annuity with a Market Value Adjustment (MVA)

An Illustration Prepared for John Doe by John Agent on mm/dd/yyyy

(Contact us at [Policyownerservice@ABCLife.com](mailto:Policyownerservice@ABCLife.com) or 555-555-5555.)

Sex: Male	Initial Premium Payment: \$100,000.00
Age at Issue: 54	Planned Annual Premium Payments: None
Annuitant: John Doe	Tax Status: Nonqualified
Oldest Age at Which Annuity Payments Can Begin: 95	Withdrawals: None Illustrated

<b>Initial Interest Guarantee Period</b>	5 Years
<b>Initial Guaranteed Interest Crediting Rates</b>	
First Year (reflects first year only interest bonus credit of 0.75%):	4.15%
Remainder of Initial Interest Guarantee Period:	3.40%
<b>Market Value Adjustment Period:</b>	5 Years
<b>Minimum Guaranteed Interest Rate After Initial Interest Guarantee Period*:</b>	3%

\*After the Initial Interest Guarantee Period, a new interest rate will be declared annually. This rate cannot be lower than the Minimum Guaranteed Interest Rate.

**Annuity Income Options and Illustrated Monthly Income Values**

This annuity is designed to pay an income that is guaranteed to last as long as the Annuitant lives. When annuity income payments are to begin, the income payment amounts will be determined by applying an annuity income rate to the annuity Account Value.

**Annuity income options include the following:**

- Periodic payments for Annuitant's life
- Periodic payments for Annuitant's life with payments guaranteed for a certain number of years
- Periodic payments for Annuitant's life with payments continuing for the life of a survivor annuitant

**Illustrated Annuity Income Option:** Monthly payments for Annuitant's life with payments guaranteed for 10-year period.

**Assumed Age When Payments Start:** 70

	Account Value	Monthly Annuity Income Rate/\$1,000 of Account Value*	Monthly Annuity Income
Based on Rates Guaranteed in the Contract	\$164,798	\$5.00	\$823.99
Based on Rates Currently Offered by the Company	\$171,976	\$6.50	\$1,117.84

\*If, at the time of annuitization, the annuity income rates currently offered by the company are higher than the annuity income rates guaranteed in the contract, the current rates will apply.

**ABC Life Insurance Company***Company Product Name*

Flexible Premium Fixed Deferred Annuity with a Market Value Adjustment (MVA)

An Illustration Prepared for John Doe by John Agent on mm/dd/yyyy

(Contact us at [Policyownerservice@ABCLife.com](mailto:Policyownerservice@ABCLife.com) or 555-555-5555.)

Contract Year/Age	Premium Payment	Values Based on Guaranteed Rates				Values Based on Assumption That Initial Guaranteed Rates Continue		
		Interest Crediting Rate	Account Value	Cash Surrender Value Before MVA	Minimum Cash Surrender Value After MVA	Interest Crediting Rate	Account Value	Cash Surrender Value Before and After MVA
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1 / 55	\$ 100,000	4.15%	\$ 104,150	\$ 95,818	\$ 92,000	4.15%	\$ 104,150	\$ 95,818
2 / 56	0	3.40%	107,691	100,153	93,000	3.40%	107,691	100,513
3 / 57	0	3.40%	111,353	104,671	95,614	3.40%	111,353	104,671
4 / 58	0	3.40%	115,139	109,382	98,482	3.40%	115,139	109,382
5 / 59	0	3.40%	119,053	114,291	114,291	3.40%	119,053	114,291
6 / 60	0	3.00%	122,625	118,946	118,946	3.40%	123,101	119,408
7 / 61	0	3.00%	126,304	123,778	123,778	3.40%	127,287	124,741
8 / 62	0	3.00%	130,093	130,093	130,093	3.40%	131,614	131,614
9 / 63	0	3.00%	133,996	133,996	133,996	3.40%	136,089	136,089
10 / 64	0	3.00%	138,015	138,015	138,015	3.40%	140,716	140,716
11 / 65	0	3.00%	142,156	142,156	142,156	3.40%	145,501	145,501
16 / 70	0	3.00%	164,798	164,798	164,798	3.40%	171,976	171,976
21 / 75	0	3.00%	191,046	191,046	191,046	3.40%	203,268	203,268
26 / 80	0	3.00%	221,474	221,474	221,474	3.40%	240,255	240,255
31 / 85	0	3.00%	256,749	256,749	256,749	3.40%	283,972	283,972
36 / 90	0	3.00%	297,643	297,643	297,643	3.40%	335,643	335,643
41 / 95	0	3.00%	345,050	345,050	345,050	3.40%	396,717	396,717

For column descriptions, turn to page 3

### Column Descriptions

- (1) **Ages** shown are measured from the Annuitant's age at issue.
- (2) **Premium Payments** are assumed to be made at the beginning of the Contract Year shown.

#### **Values Based on Guaranteed Rates**

- (3) **Interest Crediting Rates** shown are annual rates; however, interest is credited daily. During the Initial Interest Guarantee Period, values developed from the Initial Premium Payment are illustrated using the Initial Guaranteed Interest Rate(s) declared by the insurance company, which include an additional first year only interest bonus credit of 0.75%. The interest rates will be guaranteed for the Initial Interest Guarantee Period, subject to an MVA. After the Initial Interest Guarantee Period, a new renewal interest rate will be declared annually, but can never be less than the Minimum Guaranteed Interest Rate shown.
- (4) **Account Value** is the amount you have at the end of each year if you leave your money in the contract until you start receiving annuity payments. It is also the amount available upon the Annuitant's death if it occurs before annuity payments begin. The death benefit is not affected by surrender charges or the MVA.
- (5) **Cash Surrender Value Before MVA** is the amount available at the end of each year if you surrender the contract (after deduction of any Surrender Charge) but before the application of any MVA. Surrender charges are applied to the Account Value according to the schedule below until the surrender charge period ends, which may be after the Initial Interest Guarantee Period has ended.

<b>Years Measured from Premium Payment:</b>	1	2	3	4	5	6	7	8+
<b>Surrender Charges:</b>	8%	7%	6%	5%	4%	3%	2%	0%

- (6) **Minimum Cash Surrender Value After MVA** is the minimum amount available at the end of each year if you surrender your contract before the end of five years, no matter what the MVA is. The minimum is set by law. The amount you receive may be higher or lower than the cash surrender value due to the application of the MVA, but never lower than this minimum. Otherwise the MVA works as follows: If the interest rate available on new contracts offered by the company is LOWER than your Initial Guaranteed Interest Rate, the MVA will INCREASE the amount you receive. If the interest rate available on new contracts offered by the company is HIGHER than your Initial Guaranteed Interest Rate, the MVA will DECREASE the amount you receive. Page 4 of this illustration provides additional information concerning the MVA.

#### **Values Based on Assumption That Initial Guaranteed Rates Continue**

- (7) **Interest Crediting Rates** are the same as in Column (3) for the Initial Interest Guarantee Period. After the Initial Interest Guarantee Period, a new renewal interest rate will be declared annually. For the purposes of calculating the values in this column, it is assumed that the Initial Guaranteed Interest Rate (without the bonus) will continue as the new renewal interest rate in all years. The actual renewal interest rates are not subject to an MVA and will very likely NOT be the same as the illustrated renewal interest rates.
- (8) **Account Value** is calculated the same way as Column (4).
- (9) **Cash Surrender Value Before and After MVA** is the Cash Surrender Value at the end of each year assuming that Initial Guaranteed Interest Rates continue, and that the continuing rates are the rates offered by the company on new contracts. In this case, the MVA would be zero, and Cash Surrender Values before and after the MVA would be the same.

**Important Note:** This illustration assumes you will take **no** withdrawals from your annuity before you begin to receive periodic income payments. **Withdrawals will reduce both the annuity Account Value and the Cash Surrender Value.** You may make partial withdrawals of up to 10% of your account value each contract year without paying surrender charges. Excess withdrawals (above 10%) and full withdrawals will be subject to surrender charges.

**This illustration assumes the annuity's current interest crediting rates will not change. It is likely that they will change and actual values may be higher or lower than those in the illustration.**

**The values in this illustration are not guarantees or even estimates of the amounts you can expect from your annuity. For more information, read the annuity disclosure and annuity buyer's guide.**

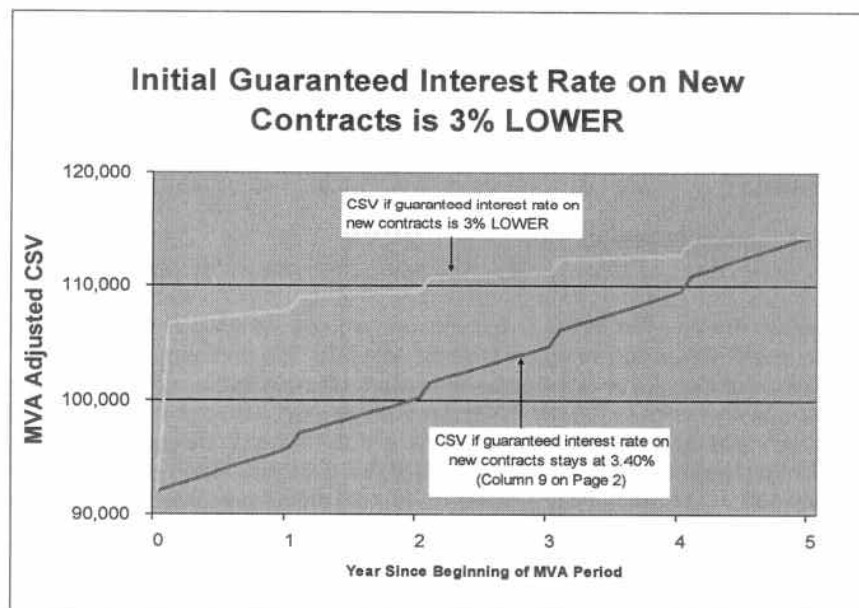
### MVA-Adjusted Cash Surrender Values (CSVs) Under Sample Scenarios

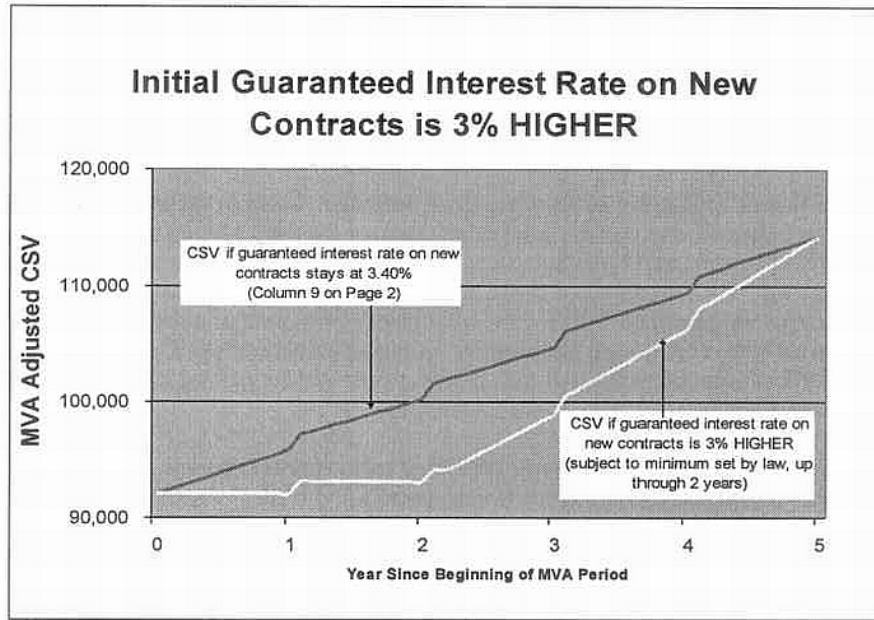
The graphs below\* show MVA-adjusted Cash Surrender Values (CSVs) during the first five years of the contract, as illustrated on page 2 (\$100,000 single premium, a 5-year MVA Period) under two sample scenarios, as described below.

**Graph #1** shows if the interest rate on new contracts is 3% LOWER than your Initial Guaranteed Interest Rate, the MVA will increase the amount you receive (green line). The pink line shows the Cash Surrender Values if the Initial Guaranteed Interest Rates continue (from Column (9) on Page 2).

**Graph #2** shows if the interest rate on new contracts is 3% HIGHER than your Initial Guaranteed Interest Rate, the MVA will decrease the amount you receive, but not below the minimum set by law (Column (6) on Page 2), which in this scenario limits the decrease for the first 2 years (yellow line). The pink line shows the Cash Surrender Values if the Initial Guaranteed Interest Rates continue (from Column (9) on Page 2).

These graphs and the sample guaranteed interest rates on new contracts used are for demonstration purposes only and are not intended to be a projection of how guaranteed interest rates on new contracts are likely to behave.





\*Color not reproducible in the Iowa Administrative Code.

Page 4 of 4

[ARC 0035C, IAB 3/7/12, effective 4/11/12]

## APPENDIX VI

**INSURANCE AGENT (PRODUCER) DISCLOSURE FOR ANNUITIES****Do Not Sign Unless You Have Read and Understand the Information in this Form**

Date: \_\_\_\_\_

**INSURANCE AGENT (PRODUCER) INFORMATION (“Me”, “I”, “My”)**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

Business/Agency Name: \_\_\_\_\_ Website: \_\_\_\_\_

Business Mailing Address: \_\_\_\_\_

Business Telephone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

National Producer Number in [state]: \_\_\_\_\_

**CUSTOMER INFORMATION (“You”, “Your”)**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

**What Types of Products Can I Sell You?**

I am licensed to sell annuities to you in accordance with state law. If I recommend that You buy an annuity, it means I believe that it effectively meets Your financial situation, insurance needs, and financial objectives. Other financial products, such as life insurance or stocks, bonds and mutual funds, also may meet Your needs.

I offer the following products:

- ☐ Fixed or Fixed Indexed Annuities  
☐ Variable Annuities  
☐ Life Insurance

I need a separate license to provide advice about or to sell non-insurance financial products. I have checked below any non-insurance financial products that I am licensed and authorized to provide advice about or to sell.

- ☐ Mutual Funds  
☐ Stocks/Bonds  
☐ Certificates of Deposits

**Whose Annuities Can I Sell to You?**

I am authorized to sell:

<input type="checkbox"/> Annuities from Only One (1) Insurer	<input type="checkbox"/> Annuities from Two or More Insurers
<input type="checkbox"/> Annuities from Two or More Insurers although I primarily sell annuities from:	

**How I’m Paid for My Work:**

It’s important for You to understand how I’m paid for my work. Depending on the particular annuity You purchase, I may be paid a commission or a fee. Commissions are generally paid to Me by the insurance company while fees are generally paid to Me by the consumer. If You have questions about how I’m paid, please ask Me.

Depending on the particular annuity You buy, I will or may be paid cash compensation as follows:

☐ Commission, which is usually paid by the insurance company or other sources. If other sources, describe: \_\_\_\_\_.

☐ Fees (such as a fixed amount, an hourly rate, or a percentage of your payment), which are usually paid directly by the customer.

☐ Other (Describe): \_\_\_\_\_.

*If you have questions about the above compensation I will be paid for this transaction, please ask me.*

I may also receive other indirect compensation resulting from this transaction (sometimes called “noncash” compensation), such as health or retirement benefits, office rent and support, or other incentives from the insurance company or other sources.

***Drafting Note:*** *This disclosure may be adapted to fit the particular business model of the producer. As an example, if the producer only receives commission or only receives a fee from the consumer, the disclosure may be refined to fit that particular situation. This form is intended to provide an example of how to communicate producer compensation, but compliance with the regulation may also be achieved with more precise disclosure, including a written consulting, advising or financial planning agreement.*

***Drafting Note:*** *The acknowledgment and signature should be in immediate proximity to the disclosure language.*

By signing below, you acknowledge that you have read and understand the information provided to you in this document.

---

Customer Signature

---

Date

---

Agent (Producer) Signature

---

Date

[ARC 5045C, IAB 6/3/20, effective 7/8/20]

## APPENDIX VII

**CONSUMER REFUSAL TO PROVIDE INFORMATION****Do Not Sign Unless You Have Read and Understand the Information in this Form****Why are you being given this form?**

You're buying a financial product – an annuity.

To recommend a product that effectively meets your needs, objectives and situation, the agent, broker, or company needs information about you, your financial situation, insurance needs and financial objectives.

If you sign this form, it means you have not given the agent, broker, or company some or all the information needed to decide if the annuity effectively meets your needs, objectives and situation. You may lose protections under the Insurance Code of [this state] if you sign this form or provide inaccurate information.

Statement of Purchaser:

- ☐ I **REFUSE** to provide this information at this time.
- ☐ I have chosen to provide **LIMITED** information at this time.

---

Customer Signature

---

Date

---

[ARC 5045C, IAB 6/3/20, effective 7/8/20]



## APPENDIX VIII

**Consumer Decision to Purchase an Annuity NOT Based on a Recommendation****Do Not Sign This Form Unless You Have Read and Understand It.****Why are you being given this form?**

You are buying a financial product – an annuity.

To recommend a product that effectively meets your needs, objectives and situation, the agent, broker, or company has the responsibility to learn about you, your financial situation, insurance needs and financial objectives.

If you sign this form, it means you know that you're buying an annuity that was not recommended.

Statement of Purchaser:

I understand that I am buying an annuity, but the agent, broker or company did not recommend that I buy it. If I buy it **without a recommendation**, I understand I may lose protections under the Insurance Code of [this state].

\_\_\_\_\_  
Customer Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Agent/Producer Signature

\_\_\_\_\_  
Date

[ARC 5045C, IAB 6/3/20, effective 7/8/20]

These rules are intended to implement Iowa Code chapters 507B and 522B.

[Filed 8/1/63, amended 11/21/63, 11/16/65, 1/13/71, 10/11/72, 7/3/75]

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[Filed 1/7/77, Notice 10/20/76—published 1/26/77, effective 3/2/77]

[Filed emergency 12/12/77—published 12/28/77, effective 1/1/78]

[Filed 12/21/78, Notice 10/4/78—published 1/10/79, effective 2/15/79]<sup>1</sup>

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[Filed 11/5/81, Notice 9/2/81—published 11/25/81, effective 12/31/81]<sup>2</sup>

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[Editorially transferred from [510] to [191], IAC Supp. 10/22/86; see IAB 7/30/86]

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[Filed 7/8/88, Notice 5/18/88—published 7/27/88, effective 11/1/88]<sup>◇</sup>

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 [Filed ARC 8934B (Notice ARC 8768B, IAB 5/19/10), IAB 7/14/10, effective 1/1/11]  
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 [Filed ARC 0035C (Notice ARC 9941B, IAB 12/28/11), IAB 3/7/12, effective 4/11/12]  
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 [Filed ARC 2296C (Notice ARC 2201C, IAB 10/14/15), IAB 12/9/15, effective 1/13/16]  
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<sup>0</sup> Two or more ARCs

<sup>1</sup> The Administrative Rules Review Committee at their February 13, 1979, meeting delayed the effective date of rules 15.90 to 15.93 seventy days.

<sup>2</sup> Effective date (12/31/81) of rules 15.9 and 15.31 delayed 70 days by the Administrative Rules Review Committee.

<sup>3</sup> At its meeting held August 13, 2003, the Administrative Rules Review Committee voted to delay the effective date of 15.43(10) until adjournment of the 2004 Session of the General Assembly.

**TRANSPORTATION DEPARTMENT[761]**

Rules transferred from agency number [820] to [761] to conform with the reorganization numbering scheme in general IAC Supp. 6/3/87.

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CHAPTER 410  
SPECIAL MOBILE EQUIPMENT

**761—410.1(321) General.**

**410.1(1)** Special mobile equipment is defined in Iowa Code section 321.1.

**410.1(2)** Special mobile equipment is exempt from the titling and registration provisions of Iowa Code sections 321.18 and 321.20. However, a certificate of title and registration may be obtained in accordance with Iowa Code chapter 321 for a motor truck, trailer or semitrailer with special mobile equipment permanently attached.

**410.1(3)** Questions regarding special mobile equipment may be directed by mail to the Vehicle and Motor Carrier Services Bureau, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3268; or by email at [omcs@iowadot.us](mailto:omcs@iowadot.us).

This rule is intended to implement Iowa Code sections 321.1, 321.18 and 321.20.

[ARC 2887C, IAB 1/4/17, effective 2/8/17; ARC 5046C, IAB 6/3/20, effective 7/8/20]

**761—410.2(321E) Special mobile equipment transported on a registered vehicle.** The movement of special mobile equipment or component parts of special mobile equipment transported on a vehicle registered for the gross weight of the vehicle without load, as provided in Iowa Code section 321E.12, is subject to the following:

**410.2(1)** A vehicle registered for its gross weight without load shall not be used to transport special mobile equipment in a for-hire operation.

**410.2(2)** If the special mobile equipment is leased, the lease agreement or a certified copy of the lease agreement shall be carried in the cab of the transporting vehicle.

**410.2(3)** All movements of special mobile equipment shall comply with the size and weight limits in Iowa Code chapter 321 unless a permit to exceed these limits is obtained in accordance with Iowa Code chapter 321E.

This rule is intended to implement Iowa Code section 321E.12.

[ARC 2887C, IAB 1/4/17, effective 2/8/17]

**761—410.3(321E) Special mobile equipment transported on a registered vehicle.** Rescinded IAB 5/31/00, effective 7/5/00.

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[Filed ARC 5046C (Notice ARC 4939C, IAB 2/26/20), IAB 6/3/20, effective 7/8/20]

<sup>1</sup> Effective date of 410.3(2), June 2, 1993, delayed 70 days by the Administrative Rules Review Committee at its meeting held May 12, 1993; delay lifted by this Committee June 8, 1993, effective June 9, 1993.



CHAPTER 524  
FOR-HIRE INTRASTATE MOTOR CARRIER AUTHORITY

**761—524.1(325A) Purpose and applicability.**

**524.1(1)** This chapter establishes requirements concerning for-hire intrastate motor carriers as authorized by Iowa Code chapter 325A.

**524.1(2)** This chapter applies to motor carriers of household goods, bulk liquid commodities, all other property, and passengers being transported for hire on any highway of this state other than a transportation network company or transportation network company driver as both are defined in Iowa Code section 321N.1 and provided for in 761—Chapter 540.

[ARC 4346C, IAB 3/13/19, effective 4/17/19]

**761—524.2(325A) General information.**

**524.2(1) Information and location.** Applications, forms and information on motor carrier permits and motor carrier certificates are available by mail from the Vehicle and Motor Carrier Services Bureau, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3268; by facsimile at (515)237-3225; or by email at [omcs@iowadot.us](mailto:omcs@iowadot.us).

**524.2(2) Waiver of rules.** In accordance with 761—Chapter 11, the director of transportation may, in response to a petition, waive provisions of this chapter. A waiver shall not be granted unless the director finds that special or emergency circumstances exist.

“*Special or emergency circumstances*” means one or more of the following:

1. Circumstances where the movement is necessary to cooperate with cities, counties, other state agencies or other states in response to a national or other disaster.
2. Circumstances where the movement is necessary to cooperate with national defense officials.
3. Circumstances where the movement is necessary to cooperate with public or private utilities in order to maintain their public services.
4. Circumstances where the movement is essential to ensure safety and protection of any person or property due to events such as, but not limited to, pollution of natural resources, a potential fire or an explosion.
5. Circumstances where weather or transportation problems create an undue hardship for citizens of the state of Iowa.
6. Circumstances where movement involves emergency-type vehicles.
7. Uncommon or extraordinary circumstances where the movement is essential to the existence of an Iowa business and the move may be accomplished without causing undue hazards to the safety of the traveling public or undue damage to private or public property.

**524.2(3) Complaints.** Complaints against motor carriers pertaining to the provisions of this chapter shall be submitted in writing to the vehicle and motor carrier services bureau.

[ARC 4346C, IAB 3/13/19, effective 4/17/19; ARC 5047C, IAB 6/3/20, effective 7/8/20]

**761—524.3(325A) Applications and supporting documents.**

**524.3(1) Application.** An application for a motor carrier permit or motor carrier certificate shall be made to the vehicle and motor carrier services bureau in the form and manner prescribed by the department.

**524.3(2) Application fee.** An application for a motor carrier permit or motor carrier certificate shall be accompanied by the statutory application fee. This fee shall be paid by credit card or by cash, check or money order made payable to the Iowa Department of Transportation.

**524.3(3) Supporting documents.** An application for a motor carrier permit or motor carrier certificate must be accompanied by the following supporting documentation in the form and manner prescribed by the department:

- a. Proof of insurance.
- b. Safety self-certification. (See rule 761—524.9(325A).)
- c. A U.S. DOT number if required by the Federal Motor Carrier Safety Administration.

*d.* Financial statement, only for motor carriers of bulk liquid commodities (nondairy) and regular-route passengers. (See rule 761—524.10(325A).)

*e.* Tariff, only for motor carriers of household goods.  
[ARC 4346C, IAB 3/13/19, effective 4/17/19; ARC 5047C, IAB 6/3/20, effective 7/8/20]

**761—524.4(325A) Issuance of motor carrier permit or motor carrier certificate.** When all requirements are met, the department shall issue the motor carrier permit or certificate. The motor carrier shall make a copy of the permit or certificate and carry it in each motor vehicle at all times. The copy may be in either a physical or an electronic format as prescribed by the department. The permit or certificate shall be available for display to any peace officer upon request.  
[ARC 4346C, IAB 3/13/19, effective 4/17/19; ARC 5047C, IAB 6/3/20, effective 7/8/20]

**761—524.5(325A) Duplicate motor carrier permit or motor carrier certificate.** Written requests for a duplicate motor carrier permit or motor carrier certificate shall be sent to the vehicle and motor carrier services bureau. Requests shall include the carrier name and the carrier permit number, certificate number, or U.S. DOT number. Any motor carrier in good standing shall be issued a duplicate document upon payment of the required fee.  
[ARC 4346C, IAB 3/13/19, effective 4/17/19; ARC 5047C, IAB 6/3/20, effective 7/8/20]

**761—524.6(325A) Amendment to a motor carrier permit or motor carrier certificate.**

**524.6(1) Update to a motor carrier permit.** To change the commodities being transported under a permit, an updated application must be submitted to the vehicle and motor carrier services bureau. The updated application shall include the permit number and the required fee for a duplicate permit. Transporting of commodities not listed on the permit shall not commence until a new permit or temporary permit has been issued and is carried in the vehicle.

**524.6(2) Change of name or address for a motor carrier permit or certificate.** To change the name or address, an updated application shall be sent to the vehicle and motor carrier services bureau within 30 days after the change. The updated application shall include the permit or certificate number, old name or address, new name or address, and the required fee.  
[ARC 4346C, IAB 3/13/19, effective 4/17/19; ARC 5047C, IAB 6/3/20, effective 7/8/20]

**761—524.7(325A) Insurance—suspension.**

**524.7(1) Insurance.** Each motor carrier shall at all times maintain on file with the department the effective certificate(s) of insurance or a surety bond on a form prescribed by the department.

*a.* The insurance or the surety bond shall be written for a period of one year or more.  
*b.* The department shall be given written notice 30 days prior to the cancellation of the insurance or the surety bond.

*c.* Prior to July 1, 2021, the certificate of insurance may be submitted electronically in a format approved by the department. An insurance carrier that submits the certificate of insurance under this rule shall implement electronic submission of such certificate no later than July 1, 2021. As of July 1, 2021, no paper submissions of such certificates shall be accepted, and all certificates of insurance shall be submitted electronically in a format approved by the department.

**524.7(2) Self-insurance.** In lieu of maintaining the above insurance, intrastate carriers that also operate interstate and have been approved by a federal agency to self-insure may apply to the department to self-insure by submitting a written request to the vehicle and motor carrier services bureau. The written request shall include a copy of the federal agency's approval. The department shall allow self-insurance as long as a federal agency has approved the carrier to self-insure and the motor carrier provides the department with copies of any information required by that federal agency. The department must be notified immediately by the motor carrier if there is any change in the status of the self-insurance for interstate operation.

**524.7(3) Suspension for no insurance.** If a motor carrier fails to maintain the required insurance on file with the department, the department shall suspend the motor carrier's permit or certificate in accordance with Iowa Code chapter 325A and rule 761—524.17(325A). The suspension shall remain in

effect until the requirements are met and a reinstatement fee is paid. A motor carrier shall not continue operation without proper insurance.

[ARC 4346C, IAB 3/13/19, effective 4/17/19; ARC 4803C, IAB 12/4/19, effective 1/8/20; ARC 5047C, IAB 6/3/20, effective 7/8/20]

**761—524.8(325A) Self-insurance for motor carriers of passengers.**

**524.8(1) *Applications for self-insurance.*** A motor carrier of passengers with more than 25 motor vehicles may request self-insurance by submitting a written request to the vehicle and motor carrier services bureau. The written request shall include a copy of the most recent audited financial statement and a vehicle list.

**524.8(2) *Review by the department.*** The department may request additional information. The department shall deny the request to self-insure or suspend existing approval if the motor carrier fails to meet the self-insurance standard. Approval of self-insurance is continuous. However, the motor carrier shall annually file audited financial statements with the vehicle and motor carrier services bureau within 60 days after the end of the motor carrier's fiscal year.

**524.8(3) *Cancellation of self-insurance approval.*** The department may cancel approval of self-insurance on reasonable grounds. Reasonable grounds include, but are not limited to, the following: failure to pay a final judgment within 30 days or failure to file an annual, audited financial statement. The department shall give five days' notice to the motor carrier prior to any hearing to cancel approval of self-insurance.

[ARC 4346C, IAB 3/13/19, effective 4/17/19; ARC 5047C, IAB 6/3/20, effective 7/8/20]

**761—524.9(325A) Safety self-certification.** All motor carriers shall follow the safety regulations as stated in 761—Chapter 520 concerning operation, maintenance and inspection of vehicles used in the business. Motor carriers shall submit on a form prescribed by the department a self-certification stating knowledge, understanding and willingness to follow these safety regulations.

**761—524.10(325A) Financial statement.** An application by a motor carrier of bulk liquid commodities (nondairy) or regular-route passengers must include a statement signed by an authorized agent of a lending institution or a certified public accountant attesting to the financial capability of that carrier. At a minimum, the certification shall be based on meeting the following ratios:

Current Ratio: Minimum of 1.2:1

Current Assets

Current Liabilities = \_\_\_\_\_

Projected Operating Ratio: Maximum of 95

1. New Operation

(Use 5-Year Projection)  $\frac{\text{Operating Expenses}}{\text{Operating Revenue}} \times 100 =$  \_\_\_\_\_

2. Existing Operation

(Use 1-Year Projection)

Working Capital Ratio: Minimum 12 days Capital

Current Assets Less Current Liabilities

Average Daily Operating Expenses = \_\_\_\_\_

**761—524.11(325A) Safety education seminar.**

**524.11(1) *Requirement.*** Motor carriers of bulk liquid commodities (nondairy) and passengers shall attend an approved safety education seminar within six months of issuance of the permit or certificate except as provided in subrule 524.11(4). The individuals in attendance shall be the persons responsible for the safety records and driver training. Failure to attend an approved safety education seminar within the time provided shall result in suspension of the motor carrier permit or certificate.

**524.11(2) *Availability.*** The department shall provide an approved safety education seminar periodically. Information on the seminar schedule is available by mail from the Vehicle and Motor Carrier Services Bureau, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3268; or by email at [omcs@iowadot.us](mailto:omcs@iowadot.us).

**524.11(3) *Third-party safety education seminar approval.*** Motor vehicle enforcement shall approve the course curriculum before approving individuals outside the department to conduct safety education seminars. The course curriculum shall be submitted for approval to motor vehicle enforcement. At a minimum, the safety course curriculum shall include the following information:

- a. Commercial driver's license regulations.
- b. A general overview of the U.S. DOT's motor carrier safety regulations and hazardous materials regulations which are adopted annually by the department.
- c. Iowa Code sections 321.449 and 321.450 and all associated administrative rules.
- d. Iowa Code section 321.463 and all associated administrative rules.
- e. Out-of-service criteria.
- f. A general overview of the U.S. DOT's Emergency Response Guide Book.

**524.11(4) *Exemption.*** Passenger carriers with vehicles not meeting the definition of a commercial vehicle as defined in Iowa Code section 321.1 are exempt from attending the safety education seminar and paying the seminar fee. A motor carrier certificate issued for such a carrier contains the statement: "limited to noncommercial vehicles only." If a motor carrier wishes to start operating vehicles that meet the definition of a commercial motor vehicle, the motor carrier must update its authority with the vehicle and motor carrier services bureau. A motor carrier must pay the seminar fee and attend the seminar within six months of updating the certificate. A new motor carrier certificate removing the limitation would then be issued.

[ARC 0136C, IAB 5/30/12, effective 7/4/12; ARC 4346C, IAB 3/13/19, effective 4/17/19; ARC 5047C, IAB 6/3/20, effective 7/8/20]

**761—524.12(325A) Marking of motor vehicles.** "Motor vehicle" is defined in Iowa Code chapter 325A. Before placing any motor vehicle in service, the motor vehicle shall be clearly marked with letters and figures large enough to be easily read at a distance of 50 feet and in a color in contrast to the background. These markings shall be painted on each side of the motor vehicle or may consist of a removable device that meets identification and legibility requirements and is securely placed on each side of the motor vehicle.

**524.12(1)** Motor carriers operating intrastate only shall display:

- a. Name of motor carrier under whose authority the motor vehicle is being operated.
- b. U.S. DOT number followed by the letters "IA" if the motor carrier has been issued a number by the Federal Motor Carrier Safety Administration.

**524.12(2)** Motor carriers operating both interstate and intrastate shall display markings in accordance with 49 CFR Part 390.21, as adopted in 761—Chapter 520.

[ARC 4346C, IAB 3/13/19, effective 4/17/19]

**761—524.13(325A) Bills of lading or freight receipts.**

**524.13(1) *Requirements.*** Every motor carrier operating under a motor carrier permit, except for those motor carriers transporting unprocessed agricultural and horticultural products and livestock, shall issue a bill of lading or receipt on the date freight is received for shipment. The bill of lading or receipt shall show the following:

- a. Name of motor carrier.
- b. Date and place received.
- c. Name of consignor.
- d. Name of consignee.
- e. Destination.
- f. Description of shipment.
- g. Signature of motor carrier or agent issuing the bill of lading or receipt.
- h. Freight described in apparent good order unless an exception is noted.

**524.13(2) *Retention.*** There shall be one copy of the bill of lading or receipt for the consignor, one for the consignee and one to be kept by the motor carrier. The copy may be either paper or electronic except that a bill of lading or receipt of freight consisting of hazardous materials must be a paper copy as required in accordance with 49 CFR Part 172. The motor carrier shall carry a copy of the bill of lading or receipt with the cargo and shall show the total of all charges made for the movement of freight.

The motor carrier shall keep the bill of lading or receipt for a period of not less than one year. At any reasonable time, the bill of lading or receipt is subject to inspection by the department's representatives and any peace officer.

[ARC 5047C, IAB 6/3/20, effective 7/8/20]

**761—524.14(325A) Lease of a vehicle.**

**524.14(1) *Lease defined.*** “Lease,” for the purpose of these rules, means a written document providing for the exclusive possession, control and responsibility over the operation of a vehicle by the lessee for a specific period of time as if the lessee were the owner. A copy of the lease must be carried in the leased vehicle at all times. No motor carrier may have more than one lease covering a specific vehicle in effect at a given time.

**524.14(2) *Lease of a vehicle to a shipper or a receiver.*** No motor carrier shall lease a vehicle with or without a driver to a shipper or a receiver.

**524.14(3) *Marking of a motor vehicle.*** Each lessee shall properly identify each motor vehicle during the period of the lease as specified in rule 761—524.12(325A).

**524.14(4) *Lease requirements.*** Any lease of a vehicle by any motor carrier except under the following conditions is prohibited:

*a.* Every lease must be in writing and signed by the parties or their regular employees or agents duly authorized to act for them.

*b.* Every lease shall specify the time that the lease begins and the time or circumstances on which it ends.

**761—524.15(325A) Tariffs.**

**524.15(1) *Requirements.*** All motor carriers of household goods shall maintain on file with the vehicle and motor carrier services bureau a tariff stating the rates and charges that apply for the services performed under the permit.

**524.15(2) *Printing.*** All tariffs and amendments or supplements must be in book, pamphlet or loose-leaf form. They must be plainly printed or reproduced. No alteration in writing or erasure shall be made in any tariff or supplement.

**524.15(3) *Filing date.*** All changes to tariffs and supplements must be filed with the vehicle and motor carrier services bureau at least seven days prior to the effective date. Tariffs or supplements issued in connection with applications for motor carriers of household goods may become effective on the date the permits are issued.

**524.15(4) *Copy to department.*** To file a tariff with the vehicle and motor carrier services bureau, motor carriers of household goods or their agents shall submit a transmittal letter listing all the enclosed tariffs and include one copy of each tariff, supplement or revised page.

**524.15(5) *Title page.*** The title page of every tariff and supplement shall include the following:

*a.* Each tariff shall be numbered in the upper right-hand corner, beginning with number 1. The number shall be shown as follows: Ia. DOT No. ....

When a tariff is issued canceling a tariff previously filed, the Ia. DOT number that has been canceled must be shown in the right-hand corner under the Ia. DOT number of the new tariff.

*b.* Supplements or changes to a tariff shall be numbered beginning with number 1, and this information shall be shown in the upper right-hand corner along with the number of any previous supplements canceled or changed by the supplement.

*c.* The name of each motor carrier of household goods must be the same as it appears on the permit. If the motor carrier of household goods is not a corporation and uses a trade name, the name of the individual or partners must precede the trade name.

*d.* Each tariff shall include a brief description of the territory or points from which and to which the tariff applies.

*e.* Each tariff shall contain the issue and effective dates.

*f.* Each tariff shall include the name, title and street address of the motor carrier of household goods or the agent by whom the tariff is issued.

**524.15(6) Contents of tariff.** Each tariff shall include the following:

- a. A table of contents that is arranged alphabetically.
- b. A complete index of all commodities including the page number. However, no index or table of contents is needed in tariffs of less than five pages or if the rates are alphabetically arranged by commodities.
- c. An explanation of all abbreviations, symbols and reference marks used.
- d. All rates in the tariff explicitly stated in cents or in dollars and cents per one hundred pounds, per mile, per hour, per ton or two thousand pounds, per truck load (of stated amount) or other definable measure. Where rates are stated in amounts per package or bundle, definite specifications of the packages or bundles must be shown and ambiguous terms, rates, descriptions or plans for determining charges shall not be accepted.

**524.15(7) Duplication of rates.** Motor carriers of household goods or their agents shall not publish duplicate or conflicting rates.

**524.15(8) Tariff changes.** All rates and charges which have been filed with the vehicle and motor carrier services bureau must be allowed to become effective and remain in effect for a period of at least seven days before being changed, canceled or withdrawn. All tariffs, supplements and revised pages shall indicate changes from the previous tariff. Changes may be indicated by providing a summary or by use of the following symbols:

(R) to denote reductions

(A) to denote increases

(C) to denote changes, the result of which is neither an increase nor a reduction.

**524.15(9) Posting regulations.** Each motor carrier of household goods must post and file at its principal place of business all of its tariffs and supplements. All tariffs must be kept available for public inspection.

**524.15(10) Application for special permission.** Motor carriers of household goods and agents when making application for permission to establish rates, charges, or rules of the tariff on less than the statutory seven days' notice shall use the form prescribed by the department or other form containing all of the required information.

**524.15(11) Powers of attorney.**

a. Whenever a motor carrier of household goods desires to give authority to an agent or to another motor carrier of household goods to issue and file tariffs and supplements in its stead, a power of attorney shall be provided to the department.

b. The original power of attorney shall be filed with the vehicle and motor carrier services bureau and a copy sent to the agent or motor carrier of household goods on whose behalf the document was issued.

c. Whenever a motor carrier of household goods desires to cancel the authority granted an agent or another motor carrier of household goods by power of attorney, this may be done by a letter addressed to the department revoking the authority on 60 days' notice. For good cause, the department may authorize less than 60 days' notice. Copies of the notice must also be mailed to all interested parties by the motor carrier.

**524.15(12) Nonconforming tariffs.** The vehicle and motor carrier services bureau shall review tariffs that do not conform with subrules 524.15(1) to 524.15(11) to determine if the tariffs contain the necessary information and are acceptable. Tariffs that are unacceptable shall be returned with an explanation.

[ARC 4346C, IAB 3/13/19, effective 4/17/19; ARC 5047C, IAB 6/3/20, effective 7/8/20]

**761—524.16(325A) Transfer of motor carrier regular-route passenger certificate or motor carrier permit for household goods.** Rescinded IAB 5/30/12, effective 7/4/12.

**761—524.17(325A) Suspension, revocation or reinstatement.** The department may suspend or revoke a motor carrier permit or certificate for a violation of Iowa Code chapter 325A or this chapter. The suspension or revocation shall continue until the motor carrier is no longer in violation and the reinstatement fee is paid. A new permit or certificate shall be issued upon reinstatement.



**761—524.18(325A) Hearings.** A person whose application for a motor carrier permit or certificate has been denied for a reason other than noncompliance with insurance requirements or whose motor carrier permit or certificate has been suspended or revoked for a reason other than noncompliance with insurance requirements may contest the decision in accordance with Iowa Code chapter 17A and 761—Chapter 13. The request for a hearing shall be submitted in writing to the director of the vehicle and motor carrier services bureau. The request shall include, as applicable, the motor carrier's name, permit or certificate number, complete address and telephone number. The request must be submitted within 20 days after the date of the notice of suspension, revocation or denial.

[ARC 4346C, IAB 3/13/19, effective 4/17/19; ARC 5047C, IAB 6/3/20, effective 7/8/20]

These rules are intended to implement Iowa Code chapter 325A.

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[Filed ARC 4803C (Notice ARC 4681C, IAB 10/9/19), IAB 12/4/19, effective 1/8/20]

[Filed ARC 5047C (Notice ARC 4994C, IAB 3/25/20), IAB 6/3/20, effective 7/8/20]



CHAPTER 604  
LICENSE EXAMINATION

[Prior to 6/3/87, see Transportation Department[820]—(07,C)rules 13.3 and 13.17]

**761—604.1(321) Authority and scope.**

**604.1(1)** The department is authorized to determine by examination an applicant's ability to operate motor vehicles safely upon the highways and to issue all driver's licenses.

**604.1(2)** This chapter of rules shall apply to the examination for all driver's licenses. Information on the additional examination procedures and requirements for a commercial driver's license or commercial learner's permit is given in 761—Chapter 607.

This rule is intended to implement Iowa Code sections 321.2, 321.3, 321.13, 321.177, and 321.186.  
[ARC 2071C, IAB 8/5/15, effective 7/14/15; ARC 2337C, IAB 1/6/16, effective 2/10/16]

**761—604.2(321) Definitions.**

*"Binocular field of vision"* is the sum of the temporal measurements or the sum of the nasal measurements.

*"Monocular field of vision"* is the sum of the temporal measurement and the nasal measurement for one eye.

*"Representative vehicle"* is a vehicle which is characteristic of and requires operating skills comparable to those vehicles that may legally be operated under the class of license or endorsement desired.

This rule is intended to implement Iowa Code sections 321.174 and 321.186.  
[ARC 9991B, IAB 2/8/12, effective 3/14/12]

**761—604.3(17A) Information and forms.**

**604.3(1)** Applications, forms, and information about driver's license examinations are available at any driver's license service center. Assistance is also available from the driver and identification services bureau by mail at Driver and Identification Services Bureau, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)244-8725; by facsimile at (515)239-1837; or on the department's website at [www.iowadot.gov](http://www.iowadot.gov).

**604.3(2)** The "Iowa Driver Manual" and the "Iowa Motorcycle Operator Manual" are also available from the department and on the department's website at [www.iowadot.gov](http://www.iowadot.gov).

This rule is intended to implement Iowa Code section 17A.3.  
[ARC 5048C, IAB 6/3/20, effective 7/8/20]

**761—604.4 to 604.6** Reserved.

**761—604.7(321) Examination.**

**604.7(1)** An examination shall include:

- a. A vision screening if the person has not filed a vision report.
- b. A knowledge test of Iowa traffic laws and highway signs.
- c. A driving test of the person's ability to operate a motor vehicle.

**604.7(2)** The examination required for a driver's license depends upon the class of license requested, applicable endorsements, and the qualifications of the applicant.

This rule is intended to implement Iowa Code sections 321.186 and 321.186A.

**761—604.8 and 604.9** Reserved.

**761—604.10(321) Vision screening.**

**604.10(1) Requirement.** Vision screening or a vision report is required of an applicant for a driver's license.

**604.10(2) Method.** At driver's license service centers, a vision screening instrument shall be used to screen the applicant's vision. An applicant who has corrective lenses may be screened with or without the corrective lenses.

**604.10(3) Report.** A vision report shall be submitted on Form 430032 signed by a licensed vision specialist and shall report the person's visual acuity level and field of vision as measured within 30 days prior to the date of the application. In lieu of Form 430032, a vision report signed by a licensed vision specialist on the specialist's letterhead may be accepted if it contains all the information specified on Form 430032.

**604.10(4) Exception for persons renewing electronically.** An applicant renewing a driver's license electronically pursuant to 761—subrule 605.25(7) is not required to complete a vision screen or submit a vision report to complete the renewal. This subrule does not preclude the department from requiring a vision screen or vision report of a person who has renewed a driver's license electronically when the department has reason to believe that the person is not capable of operating a motor vehicle safely.

This rule is intended to implement Iowa Code sections 321.186, 321.186A and 321.196.

[ARC 9991B, IAB 2/8/12, effective 3/14/12; ARC 0895C, IAB 8/7/13, effective 7/9/13; ARC 1073C, IAB 10/2/13, effective 11/6/13; ARC 5048C, IAB 6/3/20, effective 7/8/20]

**761—604.11(321) Vision standards.** The visual acuity and field of vision standards for licensing and the applicable restrictions are as follows.

**604.11(1) Visual acuity standards.**

*a. When the applicant is screened without corrective lenses.* If the visual acuity is 20/40 or better with both eyes or with the better eye, no restriction will be imposed. If the visual acuity is less than 20/40 but at least 20/70 with both eyes or with the better eye, the applicant shall be restricted from driving when headlights are required.

*b. When the applicant is screened with corrective lenses.* If the visual acuity is 20/40 or better with both eyes or with the better eye, the applicant shall be required to wear corrective lenses. If the visual acuity is less than 20/40 but at least 20/70 with both eyes or with the better eye, the applicant shall be required to wear corrective lenses and shall be restricted from driving when headlights are required.

*c. Other standards.* If the visual acuity in the left eye is less than 20/100, the applicant shall be restricted to driving a vehicle with both left and right outside rearview mirrors. However, if the applicant has a visual acuity of 20/40 in the right eye and less than 20/100 in the left eye without corrective lenses and has corrective lenses that improve the vision in the left eye to better than 20/100, the applicant shall have the option of being restricted to driving with corrective lenses or driving a vehicle with both left and right outside rearview mirrors.

**604.11(2) Field of vision standards.**

*a.* If the binocular field of vision is at least 140 degrees, no restriction will be imposed.

*b.* If the binocular field of vision is less than 140 degrees but at least 110 degrees, or one eye has a monocular field of vision of at least 100 degrees, the applicant shall be restricted to driving a vehicle with both left and right outside rearview mirrors.

This rule is intended to implement Iowa Code sections 321.186, 321.193, and 321.196.

[ARC 9991B, IAB 2/8/12, effective 3/14/12]

**761—604.12(321) Vision referrals.**

**604.12(1) Referral.**

*a.* If during any vision screening, an applicant cannot attain 20/40 with at least one eye but can attain 20/70 with at least one eye, the department shall not issue a license to the applicant. Instead, the department shall advise the applicant to consult a licensed vision specialist.

*b.* A vision report, pursuant to subrule 604.10(3), shall be required before the department will reconsider licensing.

**604.12(2) License.** If the applicant's license is valid, the department may issue a temporary driving permit with restrictions appropriate to the applicant's visual acuity level and field of vision. If the applicant's license is valid for less than 30 days, the temporary driving permit shall not be valid for more than 60 days from the end of the current license validity.

**604.12(3) Report.** If the vision report recommends a restriction, the department shall issue a restricted license even though it would not be required by departmental standards.

**604.12(4) Applicant refusal.** If an applicant refuses to consult a licensed vision specialist, the department shall issue or deny the license based on the results achieved on the vision screening.

This rule is intended to implement Iowa Code sections 321.181, 321.186, 321.186A, 321.193 and 321.196.

[ARC 5048C, IAB 6/3/20, effective 7/8/20]

**761—604.13(321) Vision screening results.**

**604.13(1) Two-year license.** An applicant who cannot attain a visual acuity of 20/40 with both eyes or with the better eye shall be issued a two-year license.

**604.13(2) License denied.**

*a.* An applicant who cannot attain a visual acuity of 20/70 with both eyes or with the better eye shall not be licensed, subject to discretionary issuance under subrule 604.13(4).

*b.* If the applicant's binocular field of vision is less than 110 degrees, or the monocular field of vision is less than 100 degrees, the applicant shall not be licensed, subject to discretionary issuance under subrule 604.13(4).

**604.13(3) Reapplication.** An applicant who cannot meet the vision standards in subrule 604.13(2) may reapply when the vision improves and the applicant meets the vision standards. If a suspension or denial notice was served, reapplication must be made to the driver and identification services bureau at the address in subrule 604.3(1), or at a driver's license service center.

**604.13(4) Discretionary issuance.**

*a.* An applicant whose license is restricted under rule 761—604.11(321) or who cannot meet the vision standards in subrule 604.13(2) may submit a written request for review by an informal settlement officer.

*b.* Based upon consideration of the applicant's vision report, driving test and driving record, the written recommendation of the applicant's licensed vision specialist, and traffic conditions in the vicinity of the applicant's residence, the officer may recommend issuing a license with restrictions suitable to the applicant's capabilities. However:

(1) An applicant who cannot attain a visual acuity of 20/100 with both eyes or with the better eye may be considered for licensing only after recommendation by the medical advisory board.

(2) An applicant who cannot attain a visual acuity of 20/199 with both eyes or with the better eye shall not be licensed.

(3) If an applicant's binocular field of vision or monocular field of vision is less than 75 degrees, the applicant may be considered for licensing only after recommendation by the medical advisory board.

(4) An applicant who cannot attain a binocular or monocular field of vision of 21 degrees shall not be licensed.

*c.* The officer's recommendation denying discretionary issuance or regarding the extent and nature of restrictions is subject to reversal or modification upon review or appeal only if it is clearly characterized by an abuse of discretion.

This rule is intended to implement Iowa Code sections 321.186, 321.186A, 321.193 and 321.196.  
[ARC 9991B, IAB 2/8/12, effective 3/14/12; ARC 5048C, IAB 6/3/20, effective 7/8/20]

**761—604.14 to 604.19** Reserved.

**761—604.20(321) Knowledge test.**

**604.20(1) Written test.** A knowledge test is a written test to determine an applicant's ability to read and understand Iowa traffic laws and the highway signs that regulate, warn, and direct traffic. A test may be revised at any time but each test states the minimum passing score.

**604.20(2) Three types of tests.** There are three types of knowledge tests: an operator's test, a chauffeur's test, and a motorcycle test. The requirement for a license depends upon the class of license desired, applicable endorsements, and the qualifications of the applicant.

**604.20(3) Oral test.** An applicant who is unable to read or understand a written test may request an oral test. The oral test may be administered by an examiner or by an automated testing device.

**604.20(4) Retesting.** An applicant who fails a knowledge test may repeat the test at the discretion of the examiner, but at least one business day shall elapse between tests.

This rule is intended to implement Iowa Code section 321.186.  
[ARC 5048C, IAB 6/3/20, effective 7/8/20]

**761—604.21(321) Knowledge test requirements and waivers.**

**604.21(1) Knowledge test requirements.** The knowledge test requirements are as follows:

*a. Operator's test.* An operator's knowledge test is required for all classes of driver's licenses and all types of special driver's licenses and permits.

*b. Motorcycle test.* A motorcycle knowledge test is required for all:

- (1) Motorcycle instruction permits.
- (2) Class M driver's licenses.
- (3) Motorcycle endorsements.

*c. Chauffeur's test.* A chauffeur's knowledge test is required for all:

- (1) Chauffeur's instruction permits.
- (2) Class D driver's licenses except those with an endorsement for "passenger vehicle less than 16-passenger design."

**604.21(2) Knowledge test waivers.** The department may waive a knowledge test listed in subrule 604.21(1) if the applicant meets one of the following qualifications:

*a.* The applicant has passed the same type of test for another Iowa driver's license or an equivalent out-of-state license that is still valid or has expired within the past year.

*b.* The applicant has a valid, equivalent driver's license issued by a foreign jurisdiction with which Iowa has a nonbinding reciprocity agreement.

*c.* The applicant has a military extension and is renewing the applicant's Iowa driver's license within six months following separation from active duty.

*d.* The applicant is renewing an Iowa driver's license or endorsement within a period of one year after the expiration date of the license or endorsement.

*e.* The applicant is reinstating from a denial, cancellation, suspension, revocation, disqualification or bar of an Iowa driver's license or endorsement within a period of one year after the expiration date of the denial, cancellation, suspension, revocation, disqualification or bar.

This rule is intended to implement Iowa Code sections 321.180, 321.180A, 321.180B, 321.186, 321.189, 321.196 and 321.198.

[ARC 5048C, IAB 6/3/20, effective 7/8/20]

**761—604.22(321) Knowledge test results.** Rescinded ARC 5048C, IAB 6/3/20, effective 7/8/20.

**761—604.23 to 604.29** Reserved.

**761—604.30(321) Driving test.** A driving test is a demonstration of an applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle under actual traffic conditions. The test is also called a road test, field test, or driving demonstration. A motorcycle skill test is an off-street demonstration of an applicant's ability to control the motorcycle in a set of standard maneuvers, and a motorcycle driving test is an on-street demonstration.

**604.30(1) Vehicle type and safety.**

*a.* For the driving test, the applicant shall provide a representative vehicle as defined in 761—604.2(321) and proof of financial responsibility for the representative vehicle.

*b.* The examiner or other authorized personnel shall visually inspect the vehicle. If a vehicle is illegal or unsafe, or is not a representative vehicle, the examiner shall refuse to administer the test until corrections are made or an acceptable vehicle is provided.

**604.30(2) Criteria and route.** Form 430024, "Your Driving Test," explains the criteria for passing the test and shall be given to the applicant before any required test, except a motorcycle skill test. The

applicant shall be directed over one of the routes which have been preselected by the examiner to test driving skills and maneuvers.

**604.30(3) Test score.** The examiner shall use the standard departmental score sheet and shall enter the test score and the licensing decision in the spaces provided. At the end of the test, the examiner shall explain the test score. The test score result is valid for 90 days.

**604.30(4) Retesting.** If an applicant fails a driving test, the test may be rescheduled at the discretion of the examiner.

This rule is intended to implement Iowa Code sections 321.174 and 321.186.  
[ARC 9991B, IAB 2/8/12, effective 3/14/12; ARC 5048C, IAB 6/3/20, effective 7/8/20]

**761—604.31(321) Driving test requirements and waivers for noncommercial driver's licenses.**

**604.31(1) Driving test requirements.** The driving test requirements for noncommercial driver's licenses are as follows:

- a. *Instruction permits.* A driving test is not required to obtain an instruction permit.
- b. *Class C driver's licenses.* For a Class C driver's license other than an instruction permit or a motorized bicycle license, an operator's driving test in a representative vehicle is required, except that an autocycle as defined in Iowa Code section 321.1 shall not be used for the driving test.
- c. *Class D driver's licenses.* For a Class D driver's license, a driving test in a representative vehicle for the endorsement requested, as set out in 761—subrule 605.7(3), is required.
- d. *Class M driver's licenses and motorcycle endorsements.* The driving test for a Class M driver's license or motorcycle endorsement consists of two parts: an off-street motorcycle skill test and an on-street driving test.

(1) The off-street motorcycle skill test is required. The on-street motorcycle driving test is also required if the applicant does not have another driver's license that permits unaccompanied driving. Neither motorcycle test is required for the purposes of operating an autocycle.

(2) A motorcycle shall be used for these tests. If a three-wheeled motorcycle is used, the driver's license shall be restricted: "Not valid for 2-wheel vehicle." An autocycle is not considered a motorcycle or a three-wheeled motorcycle for testing purposes.

e. *Motorized bicycle licenses.* For a motorized bicycle license, an off-street or on-street driving test may be required. A motorized bicycle shall be used for the test.

**604.31(2) Driving test waivers.** The department may waive a required driving test listed in subrule 604.31(1) if the applicant meets one of the following qualifications:

a. The applicant has successfully completed the appropriate Iowa-approved course or courses. The appropriate Iowa-approved courses are the following: driver education, other than driver education by a teaching parent under rule 761—634.11(321), for an applicant's first Class C driver's license that permits unaccompanied driving other than motorized bicycle; motorcycle rider education for a Class M driver's license or motorcycle endorsement; and motorized bicycle education for a motorized bicycle license. However, if an applicant is under the age of 18, a driving test is required if so requested by the applicant's parent, guardian, or instructor.

b. The applicant is renewing a Class C, Class D or Class M Iowa driver's license or endorsement within a period of one year after the expiration date of the license or endorsement.

c. The applicant is reinstating from a denial, cancellation, suspension, revocation, disqualification or bar of an Iowa driver's license or endorsement within a period of one year after the expiration date of the denial, cancellation, suspension, revocation, disqualification or bar.

d. The applicant has passed the same type of driving test for another Iowa driver's license or endorsement that is still valid or has expired within the past year.

e. The applicant has a military extension and is renewing the applicant's Iowa driver's license within six months following separation from active duty.

f. The applicant is applying for a Class C Iowa driver's license that permits unaccompanied driving and has an equivalent out-of-state license that is valid or has expired within the past year.

g. The applicant is applying for a Class D Iowa driver's license and has an equivalent out-of-state license that is valid or has expired within the past year.

*h.* The applicant is applying for a Class M driver's license or a motorcycle endorsement and has an equivalent out-of-state Class M driver's license or motorcycle endorsement that is valid or has expired within the past year.

*i.* The applicant has a valid, equivalent driver's license issued by a foreign jurisdiction with which Iowa has a nonbinding reciprocity agreement.

This rule is intended to implement Iowa Code sections 321.1, 321.174, 321.178, 321.178A, 321.180, 321.180A, 321.180B, 321.186, 321.189, 321.193, 321.196 and 321.198.

[ARC 7902B, IAB 7/1/09, effective 8/5/09; ARC 1612C, IAB 9/3/14, effective 10/8/14; ARC 2071C, IAB 8/5/15, effective 7/14/15; ARC 2337C, IAB 1/6/16, effective 2/10/16; ARC 2985C, IAB 3/15/17, effective 4/19/17; ARC 4586C, IAB 7/31/19, effective 9/4/19; ARC 5048C, IAB 6/3/20, effective 7/8/20]

**761—604.32(321) Driving tests requirements.** Rescinded IAB 1/8/92, effective 2/12/92.

**761—604.33 and 604.34** Reserved.

**761—604.35(321) Determination of gross vehicle weight rating.** For a vehicle that has no legible manufacturer's certification label, the applicant may provide documentation of the gross vehicle weight rating, such as a manufacturer's certificate of origin, a title, a vehicle registration document, or the vehicle identification number information for the vehicle. In the absence of the above documentation, the registered weight of the vehicle shall be presumed to be the gross vehicle weight rating.

This rule is intended to implement Iowa Code section 321.1.

**761—604.36 to 604.39** Reserved.

**761—604.40(321) Failure to pass examination.**

**604.40(1)** An applicant who fails to pass a required examination or reexamination shall not be licensed.

*a.* If the applicant does not have a valid Iowa license, the department shall deny the applicant a license.

*b.* If the applicant has a valid Iowa license, the department shall suspend the license for incapability. However, if the applicant's license is valid for less than 30 days, the department shall deny further licensing. The department shall serve a notice of suspension or denial.

*c.* See 761—615.4(321) for further information on denials and 761—615.14(321) for further information on suspensions for incapability.

*d.* An applicant may contest a denial or suspension in accordance with 761—615.38(321).

**604.40(2)** Limitations on the hearing and appeal process.

*a.* After a suspension or denial for failure to pass a required knowledge or driving test, a person who contests the suspension or denial shall be deemed to have exhausted the person's administrative remedies after three unsuccessful attempts to pass the required test.

*b.* After the three unsuccessful attempts, no further testing shall be allowed until six months have elapsed from the date of the last test failure, and then only if the applicant demonstrates a significant change or improvement in those physical or mental factors that resulted in the original decision. A request for further testing must be submitted in writing to the driver and identification services bureau at the address in subrule 604.3(1).

*c.* Notwithstanding paragraphs "a" and "b" of this subrule, no testing shall occur if the director determines that it is unsafe to allow testing.

This rule is intended to implement Iowa Code chapter 17A and sections 321.177, 321.180A and 321.210.

[ARC 5048C, IAB 6/3/20, effective 7/8/20]

**761—604.41 to 604.44** Reserved.

**761—604.45(321) Reinstatement.** A person whose license has been suspended or denied for failure to pass a required examination or reexamination shall meet the vision standards for licensing, pass the



required knowledge examination(s), and pass the required driving test(s) before an Iowa license will be issued.

This rule is intended to implement Iowa Code sections 321.177 and 321.186.

**761—604.46 to 604.49** Reserved.

**761—604.50(321) Special reexaminations.** The department may require a special reexamination consisting of a vision screening, cognitive screening, knowledge test and driving test of any licensee.

**604.50(1)** The department may require a special reexamination when a licensee has been involved in a fatal motor vehicle accident and the investigating officer's report of the accident indicates the licensee contributed to the accident.

**604.50(2)** The department may require a special reexamination when a licensee has been involved in two accidents within a three-year period and the investigating officer's report of each accident lists one of the following "Driver/Vehicle Related Contributing Circumstances" for the licensee:

- a.* Ran traffic signal.
- b.* Ran stop sign.
- c.* Passing, interfered with other vehicle.
- d.* Left of center, not passing.
- e.* Failure to yield right-of-way at uncontrolled intersection.
- f.* Failure to yield right-of-way from stop sign.
- g.* Failure to yield right-of-way from yield sign.
- h.* Failure to yield right-of-way making left turn.
- i.* Failure to yield right-of-way to pedestrian.
- j.* Failure to have control.

**604.50(3)** The department may require a special reexamination when a licensee has been involved in an accident and the investigating officer's report lists a driver condition for the licensee of "fatigue or asleep."

**604.50(4)** The department may require a special reexamination when a licensee who is 65 years of age or older has been involved in an accident and information in the investigating officer's or the person's own report of the accident indicates the need for reexamination. A circumstance that may indicate a need for reexamination includes, but is not limited to, any one of the following:

- a.* The licensee made a left turn that resulted in the accident.
- b.* The licensee failed to yield the right-of-way at a stop sign.
- c.* The licensee failed to yield the right-of-way at a yield sign.
- d.* The licensee failed to yield the right-of-way at an uncontrolled intersection.
- e.* The licensee failed to yield the right-of-way at a traffic control signal.
- f.* The licensee's vision may be a contributing factor to an accident.
- g.* The licensee has a physical disability-related license restriction other than "corrective lenses" and the accident involved one of the circumstances listed in paragraphs "a" to "f" above.
- h.* The investigating officer's report lists a driver condition for the licensee of "loss of consciousness."
- i.* The investigating officer's report lists a driver condition for the licensee of "illness which resulted in the accident."

**604.50(5)** The department may require a special reexamination when the department receives an accident report or a recommendation by a peace officer, a court, or a properly documented citizen's request. A factor that may indicate a need for reexamination includes, but is not limited to, any one of the following:

- a.* Loss of consciousness.
- b.* Confusion, disorientation or dementia.
- c.* Inability to maintain a vehicle in the proper lane.
- d.* Repeatedly ignoring traffic control devices in a nonchase setting.
- e.* Inability to interact safely with other vehicles.

*f.* Inability to maintain consistent speed when no reaction to other vehicles or pedestrians is required.

*g.* Illness which resulted in an accident.

This rule is intended to implement Iowa Code sections 321.177, 321.186 and 321.210.

[ARC 5048C, IAB 6/3/20, effective 7/8/20]

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[Filed ARC 5048C (Notice ARC 4995C, IAB 3/25/20), IAB 6/3/20, effective 7/8/20]

<sup>1</sup> Effective date of 604.11(2) and 604.13(2) “b” delayed until adjournment of the 1988 Session of the General Assembly pursuant to Iowa Code section 17A.8(9) by the Administrative Rules Review Committee at its June 1987 meeting.